571.

SUPREME COURT OF THE UNITED STATES.

No. ~~160~~ 41.

JOHN A. BROWN, ADM'R OF JOHN ASPDEN, OF LONDON; SAMUEL JACKSON, ADM'R D. B. N. T. A. OF JOHN ASPDEN, OF LANCASHIRE; JAMES McMURTRIE AND REBECCA, HIS WIFE; GEORGE J. NAYLOR AND JAMES E. PACKER; THOMAS H. WHITE, IN HIS OWN RIGHT AND AS EX'OR OF ELIZABETH McPHERSON; THOMAS ASPDEN, IN HIS OWN RIGHT AND AS EX'OR OF JOHN ASPDEN, OF LANCASHIRE, ET AL., APPELLANTS,

vs.

MATTHIAS ASPDEN'S ADM'R D. B. N. C. T. A., ET AL.

ON APPEAL FROM THE CIRCUIT COURT, U. S., FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

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DOCKET ENTRIES.

SAMUEL PACKER, a citizen of the State of New Jersey, *vs.* HENRY NIXON, a citizen of the State of Pennsylvania, executor of the testament and last will of Matthias Aspden, esq., late a citizen of the same State.	RAWLE, Jr.; RAWLE. J. S. SMITH.

In Equity. April Session, 1828. *No.* 1.

1828, Feb. 28. Bill filed and subpœna exit.
" April 11. Subpœna returned, "served."
" Oct. 4. Answer of Henry Nixon, filed.
1829, Feb. 16. Petition of Joseph Lippincott and others to be admitted as parties to this suit, read and filed.
" May 15. Petition of John Zane and Isaac Zane to be admitted as parties complainants, filed.
" May 18. Referred to Thomas I. Wharton, as master, to examine and state who are all the heirs and next of kin.
From Minute Book. "18 May, 1829. On motion of Mr. J. R. Ingersoll, it is decreed and ordered that it be referred to T. I. Wharton, esq., as master, to examine and state, at the next session, who are all the heirs and next of kin of M. Aspden, deceased, the testator, mentioned in the bill; that the master have power to examine such witnesses as any of the parties desire, or he shall think necessary, returning his depositions with this report to this court; and that he be authorized to make publication and advertisement, in case the heirs and next of kin cannot satisfactorily be discovered otherwise. And that he report on such other matters as the parties may desire, and he may deem material."
1829, Nov. 5. On motion of Mr. Bouvier, leave given to issue commissions to be directed to such persons as the master may appoint.
(Minute Book.) "And that the said master shall direct on whom notice shall be given, and the length of the notice as to the time and place of taking such depositions; and that the master include the evidence returned in such depositions in his report to the court."
" Nov. 9. Petition of George Harrison to be admitted a party defendant, read and filed.

1829, Nov. 12. Reference to master continued over to next session. (Minute Book.) Nov. 12. Ordered—"That the reference to the master be continued over to the next session, with like authority, and instructions preserved as were originally given, as to the different objects then contemplated."

1830, March 15. Interrogatories ex parte John Aspden, sur commission to England.

" April 15. On motion of Mr. Broom for John Aspden, rule to show cause on Saturday, 24th, why he should not have leave to issue a commission to take testimony, as prayed for before the master.

" April 21. On motion of Mr. Rawle, ordered, that the petition of Joseph Lippincott, &c., be granted, and that the complainants be at liberty to amend the bill by adding the said Joseph Lippincott, &c., as complainants, and also by adding the name of George Harrison as defendant, and that the petition of John Zane and Isaac Zane be dismissed.

" June 5. Petition of John Zane and Isaac Zane read and filed. Ordered, that John Zane be entered on the docket as one of the defendants, and Isaac Zane as one of the complainants.

1830, Oct. 11. Petition of Elizabeth Macpherson, widow, Thomas H. White, and Ann Emily Bronson, Elizabeth White Bronson, Hetta Atwater Bronson, and William White Bronson, minor children of Mary Bronson, deceased, by Thomas H. White, their lawful guardian, all citizens of Pennsylvania, praying to be admitted as parties defendants, for the purpose of claiming the fund admitted by the executor to be in his hands, read and filed, and ordered accordingly.

" Oct. 19. Commission on part of John Aspden, allowed—
(Minute Book.) "The court have considered the written agreement submitted to them by the counsel, and are of opinion:

1. That it is not a matter of course that either party may require of the other to name the witnesses he will examine under a commission, but that it is in the discretion of the court to make or refuse such an order, as in their opinion the circumstances and justice of the case shall require.

2. That in this particular case the court do not think that such an order should be made on the party applying for a commission to take depositions in England, especially as it is a case of pedigree; and therefore order that the commission be issued, although the names of the witnesses be not given."

" Oct. 23. Petition of Job Packer to be admitted as a party defendant, read and filed, and ordered accordingly.

" Nov. 1. Cross interrogatories, ex parte Geo. Harrison.

" " 10. Master's allowance of commission, &c.

" " 16. Exit commission on the interrogatories of John Aspden.

1831, Feb. 11. Petition of Mary Harrison, infant, by her guardian,

Elizabeth Harrison, to be made a defendant. Read and filed, and ordered accordingly.

1831, March 7. Petition of William F. Packer, assignee of Job Packer, to be made a defendant. Read and filed, and ordered accordingly.

" April 11. Commission returned and filed.

" May 4. Commission on the part of William F. Packer, exit.

" May 19. Order of publication of notice to the next of kin to submit their claims and proofs made.

(Minute Book.) "Ordered, that the master give public notice by advertisement, published twice a week for one month, in one daily newspaper of the city of Philadelphia, as follows:

"In the case of Matthias Aspden's succession—Notice, by order of court, is hereby given, that the master is directed to report at the October session, 1831, of the circuit court of the United States in and for the district of Pennsylvania, in the third circuit, who are all the next of kin of Matthias Aspden, deceased, entitled to distributive parts of his estate, and that all claimants must, therefore, submit their claims and proofs to the master on or before Wednesday, 18th August next; and that the master accordingly make report to the court at the October session, 1831, who are all the kin of Matthias Aspden, deceased, entitled to distributive shares of his estate."

" July 1. Commission on the part of William F. Packer, returned and filed.

" Sept. 5. Time for the master to receive evidence enlarged until the rule day in October next.

" Oct. 15. Master's certificate, on deposition of Job Packer.

" Oct. 15. Sur report by the master upon the commission to England, issued on behalf of John Aspden, that he had suppressed the depositions taken under the said commission. Motion by Mr. Sargent and Mr. Broom on behalf of the said John Aspden, that the said order of the master be reversed, and that he be directed to receive the said depositions in evidence, and that the same be considered as evidence in the cause.

" Oct. 17. Motion of Mr. Rawle, jr., for complainant, that the depositions taken under a commission to Lycoming county, and admitted by the master, be suppressed.

1831, Oct. 24. Petitions of Sarah Champion and Ann Ellis, and of Rebecca Burrough, and others, praying to be admitted as parties complainant, for the purpose of claiming the fund admitted by the executor to be in his hands. Read and filed, and ordered accordingly.

" Oct. 24. Exceptions to master's report sustained; and the master directed to report the depositions, taken under the commission to England, to the court.

1831, Nov. 26. Petition of John Aspden filed.

" Dec. 12. On motion of J. R. Ingersoll, esq., it is ordered, that the costs of the master, together with the expenses of advertising, &c., be paid by the defendant out of the fund in his hands as executor.

" Dec. 12. Report of the master, and evidence accompanying the report, read and filed; and also exceptions thereto filed on behalf of Samuel Packer, the complainant, and on behalf of Job Packer.

1832, May 14. Exceptions on behalf of Samuel Packer overruled.

1833, May 9. Complainant replies generally.

" May 14. Ordered, that it be referred to Mr. Wharton, the master, to take the depositions of such witnesses as may be brought before him, by either or any of the parties, on ten days' notice.

" Oct. 12. Masters's second report filed.

" Oct. 14. Master's account filed, and ordered that it be paid by the respondent.

" Nov. 18. By consent, rule for argument, on Tuesday, 30th December next.

" Dec. 26. Decree in favor of John Aspden, of Lancashire, England; and as to all other parties complainant, whether by bill, petition, or otherwise, their complaints, petitions, and proceedings are dismissed without costs.

(Minute book.) "Argument commenced 10th December, 1833, continued 11th, 12th, 13th, 14th, 16th, 17th.

"And now, this 26th December, A. D. 1833, this cause coming on to be heard on the bill, answer, petitions, exhibits, proofs, and master's reports, and the several parties having been fully heard by their counsel, and the court having taken time to consider of the same till this day, do order, adjudge, and decree, that the defendant, Henry Nixon, surviving executor of M. Aspden, deceased, do account for, pay over, transfer, and deliver to John Aspden, of Lancashire, in England, one of the said parties, the heir-at-law of the said M. Aspden, the entire balance of the personal estate of the said Matthias Aspden, which has come to his hands to be administered, after paying the debts and legacies of the said Matthias Aspden, and the costs of this suit, which are hereby ordered to be paid out of the said fund. And the court do further order, adjudge, and decree, that the bill and petitions, so far as they relate to the other complainants and petitioners, who are claimants before the court, and all other claimants before court, however appearing, be dismissed without costs.

"Also, all parties who are claimants before the court, by bill, petition, or otherwise, their complaint, petition, and proceedings are dismissed without costs."

1833, Dec. 31. The following respondents appeal; allowed on security

being given, &c., viz., G. Harrison, T. H. White, A. E. Bronson, E. W. Bronson, H. A. Bronson, W. W. Bronson, by their guardian; Mary Harrison, by her guardian; Esther M'Pherson and Elizabeth M'Pherson, children of E. M'Pherson.

1833, Jan. 4. Recognisance of George Harrison and James M'Murtrie, to prosecute appeal, filed.

" Jan. 8. Appeal of E. Hartly and others filed, and recognisance to presecute the same allowed.

" Jan. 10. Appeal of Samuel Champion et al., filed.

" Jan. 31. Appeal of Ann Church et al., filed.

" June 17. Petition of Jannet Jones and Thomas Poole, and Mary, his wife, in right of said Mary, for leave to file a supplemental bill and bill of review, filed; and Mr. Williams and Mr. J. S. Smith, for petitioners, move for leave to file a supplemental bill and bill of review.

1834, Dec. 2. Affidavit of J. Neville, filed.

" Dec. 2. Copies of certificates of marriage and burial, filed.

" Dec. 3. Affidavits of H. J. Williams and J. S. Smith, esqrs., filed.

" Dec. 13. Motion for leave to file supplemental bill and bill of review overruled without costs; the costs to be paid out of the fund.

1835, June 2. Ordered, that the costs incurred in the Supreme Court of the United States be paid by the executor out of the fund to be taxed as in one case, and that the bill of costs be filed. Bill of costs, filed.

" June 8. Mandate of Supreme Court of U. S., filed.

" June 15. On motion of Mr. Rawle, leave is granted to the complainant to amend his bill in conformity to the directions in the decree of the Supreme Court.

" June 15. Order as to other petitioners. Ordered, that all parties to petitions heretofore filed in this cause have leave to amend the same, and to file their amended petitions.

" June 15. "Ordered, that the petitions presented by persons who have not heretofore applied to become parties, be filed and acted on pursuant to the mandate of the Supreme Court."

" "Ordered, that the petitioners named in the several petitions be allowed to present their claims and make due proof thereof, and to become parties to the proceedings in this cause for the due establishment and adjudication thereof."

" Amended bill, filed.

" June 15. Petitions of Samuel Champion and wife; of Mahlon Doan and wife, and Ann Ellis; of J. Aspden, of Lancashire, England; of Mary Ann Church; of James M'Murtrie and wife; of Joseph Worrell and wife; of John A. Brown, administrator of John Aspden, of London; of Jannet Jones and Mary Poole, filed.

" June 15. Amended petitions of John Zane and Isaac Zane; of

Thomas H. White and others; of George Harrison, Mary Harrison and others; of Rebecca Borroughs and others, filed.

1835, July 6. Petition of Rebecca Bolton, filed. Amended petition of Edward Hartly and others, filed.

" Aug. 4. Answer of Henry Nixon to the amended bill, filed; and schedule, filed.

" Sept. 7. Rule to apply in one month.

" Oct. 3. Replication of John A. Brown, administrator of J. Aspden, of London, filed.

" Oct. 5. Replication of J. Jones and Mary Pool, filed.

" 5. Replication of Samuel Packer, filed. Replication of J. Aspden, of Lancashire, filed.

" Oct. 6. Replications of S. Champion and wife; T. H. White and others; of G. Harrison; of Joseph Worrell and wife; of M. A. Church; of Rebecca Bolton, Mary Harrison, and others; J. M'Murtrie and wife,; Mahlon Doan and wife, and Ann Ellis; of John Zane and Isaac Zane; of E. Hartley and others, filed.

" Oct. 7. Replication of Rebecca Burroughs and others, filed.

" Oct. 12. Petition of Aaron Zane and others, filed.

" " 12. Replication of A. Zane and others, filed.

" " 26. Petition of Elizabeth Hinchman and others, filed.

" " 27. On motion of J. R. Ingersoll, esq., leave nisi is granted to the respondent to amend his answer to the amended bill.

" Oct. 27. On motion of Ingersoll, leave nisi is granted to file pleas in bar to the bills of Jannet Jones and Mary Poole, and of John A. Brown, administrator of J. Aspden, of London.

" Oct. 27. Mr. Williams, for John A. Brown, administrator, &c., moves for reference to a master to examine and state any matters in addition to those in evidence before the court, tending to show who are all the heirs and next of kin, and what was the domicil of Matthias Aspden, deceased, the testator mentioned in the bill, together with such other matters as he shall think necessary. That the master have power to examine all such witnesses as the parties may desire, or he shall think necessary, returning the depositions with his report to the court. And for the better discovery of the matters aforesaid, the parties are to produce before said master, upon oath, all deeds, books, papers, and writings in their custody or power relating thereto, and are to be examined as the said master shall direct; for which purpose the said master is armed with a commission, and one or more commission or commissions is or are to issue into any of the United States, or to Great Britain, or to such other parts or places as the said master shall think necessary and proper, directed to proper commissioners, if need require. The interrogatories annexed to said commission or commissions being approved by the master. And the master

is to make his report, touching the matters hereby referred to him, with all convenient speed.

1835, Oct. 27. Mr. Tilghman, for George Harrison and others, moves for a similar order.

" Motions of Mr. Williams and Mr. Tilghman overruled.

" Mr. Tilghman for same parties moves for an order, that all persons or parties, having or claiming to have any interest in this matter, who shall not appear and cause themselves to be made parties upon the record before the first day of February next, shall be barred and excluded from any right and share therein.

And the master is hereby directed to cause notice of this order to be given, by publication thereof in two daily newspapers, published in the city of Philadelphia.

" Oct. 31. Order for leave to amend the answer to the amended bill, absolute.

" Oct. 31. Order for leave to file pleas in bar, absolute.

" Two pleas in bar to the bill or petition of Jannet Jones and Mary Poole, filed. Two pleas in bar to the bill or petition of John A. Brown, administrator of John Aspden, of London, filed.

" Nov. 14. Mr. J. S. Smith, for Mrs. Jones and Mrs. Poole, moves for a rule to show cause why the pleas in bar should not be stricken off, containing averments of matter in pais not verified by affidavit.

" Nov. 14. Mr. Williams, for John A. Brown, administrator of John Aspden, of London, moves for a similar rule on the same ground.

" Nov. 14. Mr. Sergeant, for John Aspden, of Lancashire, moves for a rule on Mrs. Poole and Mrs. Jones, and on John A. Brown, administrator of John Aspden, of London, to show cause why they should not be required to elect on which bill or petition they will proceed, and to abide by the one elected, and abandon the other.

" Nov. 14. Mr. J. R. Ingersoll, for the respondent, Mr. Nixon, moves for a similar rule.

" Dec. 14. Mr. Brown, for John Aspden, of Lancashire, moves for leave to amend the pleas in bar, filed.

" Dec. 28. Mr. Ingersoll moves for leave to respondent to amend the pleas in bar, by striking out the averment of domicil of the testator, and leave is granted.

" Dec. 28. Mr. Ingersoll, for the respondent, moves for leave to amend the answer to the amended bill, conformably to the answer to the original bill as to domicil and residence of the testator, and leave is granted.

" Dec. 28. Referred to Mr. Wharton, the master.

(Minute Book.) "Ordered," that it be referred to Mr. Wharton, the master, to inquire whether both petitions of Mrs.

Poole and Mrs. Jones, and of John A. Brown, administrator of John Aspden, of London, are for the same matter, in the same right, and for the benefit of the same persons; also in what capacity and in what right John A. Brown administered on the estate of John Aspden, of London.

1835, Dec. 31. Amended answer to the amended bill, filed.

1836, Jan. 4. Report of the master on the order of reference of December 28th, 1835, filed.

" Jan. 4. Master's bill filed, and ordered that it be paid by the executor out of the funds in his hands.

" Exemplification of proceedings in the orphans' court, for the city and county of Philadelphia, filed by order of the court.

" Jan. 4. Copy of bill of revivor and of proceedings in the Exchequer in England, filed by order of the court.

" Jan. 6. Copy of the bond and letters of administration to John A. Brown, on the estate of John Aspden, of London, Old street, deceased, filed by order of the court.

" Jan. 6. Copy of inventory, of the estate of John Aspden, filed by order of the court.

" Jan. 6. Points of disagreement of the court, filed.

" Jan. 11. Points of disagreement certified to the Supreme Court of the United States.

" March 21. Mandate of Supreme Court, U. S., received and filed.

" April 12. Ordered—"That the bill of costs of the clerk Supreme Court United States be filed, and that the amount be paid by Mr. Nixon out of the fund in his hands as executor."

" May 2. Relinquishment by S. Packer of services of Mr. Rawle.

" May 2. Order of 21 March last, made absolute.

" May 23. Referred to the master to examine witnesses touching the claims of certain admitted parties, and to take evidence touching the domicil of the testator at the date of the will, at the time of his death, or the intermediate period. Ordered, that commissions issue, and that any party have leave to file interrogatories touching the domicil of the testator; and that certain admitted parties have leave to file interrogatories touching their claim to the fund in controversy.

" May 23. Mr. Tilghman's motion of 27 October, 1835, for an order fixing a time for claimants to come in, overruled.

" May 23. Motions of Mr. Smith and Mr. Williams, of 14 Nov., 1835, to strike off the pleas in bar, overruled; and leave given defendant to file affidavits nunc pro tunc.

" Motions of Mr. Sergeant and Mr. J. R. Ingersoll, of 14 Nov., 1835, for an order on Mrs. Poole and Mrs. Jones, and John A. Brown, adm. of Jno. Aspden, of London, to elect, &c., overruled.

" June 2. By leave of the court, the replication of Eliz. Hinchman, filed.

1836, June 2. Motion by Mr. Newbold, for Mahlon Doan and others, overruled. (See minutes.)

" June 2. Similar motion by Mr. McCall, for Eliz. Hinchman and others, overruled. (See minutes.)

" June 13. Petition of Jno. Aspden, of Lancashire, for an order on the defendant to pay the funds into court, and for the appointment of a receiver, read and filed. And motion for a citation to Mr. Nixon, agreeably to said petition.

" June 20. Motion of 13th inst., ex parte Jno. Aspden, of Lancashire, overruled.

" Dec. 3. Mr. Smith, for Mrs. Poole and Mrs. Jones, moves that the pleas in bar be disallowed.

" Dec. 3. Mr. Williams, for Jno. A. Brown, admr. of Jno. Aspden, of London, makes a similar motion.

" Dec. 12. Motions of Mr. Smith and Mr. Williams of 3d inst., overruled.

" Dec. 12. Agreement of parties as to printing of certain documents exhibited and filed; and order accordingly.

1837, Jan. 3. Decree as to the sufficiency of the pleas in bar, and order on the petitioners to reply. And that a commission issue to London to take testimony, &c. (See minutes.)

" Feb. 6. On motion of Mr. Rawle, e. p. John Aspden, of Lancashire, rule on Jno. A. Brown, adm'r of Jno. Aspden, of London, and on Mrs. Poole and Mrs. Jones, to reply to the pleas in bar in one month.

" Mar. 1. Replications of Mrs. Poole and Mrs. Jones to the pleas in bar, filed.

" Replication of Jno. A. Brown, adm'r, &c., to the pleas in bar, filed.

" April 4. Rejoinders to replication filed.

" April 7. Interrogatories, e. p. defendant Nixon, for com. to England, filed.

" April 7. Interrogatories, e. p. Mrs. Poole and Mrs. Jones, filed.

" April 7. Cross interrogatories, e. p. Mrs. Poole and Mrs. Jones, filed.

" April 7. Interrogatories, e. p. Jno. A. Brown, adm., &c., filed.

" April 7. Cross interrogatories, e. p. Jno. A. Brown, adm., &c., filed, and comm. exit.

" April 11. Order as to the papers deposited in the clerk's office under the order of court. (See minutes.)

" May 2. By writing filed, the complainant, S. Packer, relinquishes the services of Mr. Rawle as his solicitor, and appoints T. A. Budd, esq., his solicitor.

" Oct. 4. Master's report under order of 23d May, 1836, filed.

" Oct. 4. Depositions and schedule accompanying the master's report, under order of 23d May, 1836, filed.

1838, June 16. Agreement for issue of duplicate commission, under order of 3d Jan., 1837, filed and ordered accordingly.

1838, June 27. Exit duplicate commission.

1841, Sep. 10. Bill of revivor filed, and subpœna issued to Joseph Trotter, administrator de bonis non cum testamento annexo. Petition of John Aspden, filed.

" Oct. 4. Service of subpœna accepted by J. Trotter, administrator de bonis non, &c.

1842, April 11. On motion of Mr. Hirst, referred to T. I. Wharton, esq., to take the testimony of Joseph Fox, an infirm witness, e. p. claimants, Packer et al.

" June 9. Report of master, with deposition of Joseph Fox, filed.

1843, April 3. Petition of Thomas Aspden filed, praying to be admitted a party to the bill of revivor.

" Nov. 8. Mr. Wharton appears for the parties in the cause represented by Mr. J. S. Smith.

1843, Nov. 9. Copy of will of John Aspden, and letters testamentary to Thomas Aspden, filed.

" Nov. 9. The court being opposed in opinion as to whether the evidence touching the plea in bar is sufficient to support it, direct the same to be certified to the Supreme Court of the United States, at their next session, for final decision.

" Nov. 11. Warrant of attorney, Thomas Aspden to J. Hoffman and C. J. Ingersoll, esquires, filed.

" Dec. 11. Certificate of division certified to Supreme Court United States.

1846, March 30. On motion of Messrs. Reed and Williams, for administrator of John Aspden; rule on defendant, administrator of M. Aspden, to show cause why the costs on the appeal and certificate of division should not be paid out of the funds in the hands of the administrator of M. Aspden. Returnable 6th April.

" April 11. Ordered, that the costs of the clerk of Supreme Court United States be paid out of the funds.

(Minute book.) "Rule absolute, and ordered that the costs of the Supreme Court United States be paid by the administrator de bonis non, out of the fund, without prejudice to the right of the administrator of M. Aspden, deceased, immediately, or of the party or parties who may eventually obtain a final decree in the cause, to prosecute and recover from any person or persons who may be liable to pay the said costs the amount now directed to be paid."

" April 20. Mandate of Supreme Court United States, filed.

" May 2. Rule e. p. plaintiff, on administrator of M. Aspden, to show cause why he should not pay Thomas Aspden, executor of John Aspden, of Lancashire, the amount of costs paid for copy of record on the appeal to Supreme Court United States. Returnable 12th.

" Sept. 14. Interrogatories filed, and rule for commission, e. p. ad-

ministrator of John Aspden, of London, to Lancashire and London, and special order as to service of notice.

1846, Sept. 14. On motion of H. J. Williams, esq., for John A. Brown, administrator of John Aspden, of London, deceased, the court grant a rule for a commission to London and to Lancashire, England, to be executed in both or in either place, upon ten days' notice to the commissioners named on behalf of the parties filing cross interrogatories. Notice of this rule to be served, with a copy of the interrogatories, upon all the parties appearing by counsel in the cause, and upon all others, by a publication of a copy of this rule in the United States Gazette and Pennsylvanian, every other day for fifteen days.

" Sept. 22. Rule e. p. T. Aspden, executor of John Aspden, (of Lancashire,) to show cause why security for costs should not be given, before issuing commissions, &c. Returnable 28th. (Minute book.) Sept. 22. "On motion of J. and D. Hoffman, for T. Aspden, executor of John Aspden, rule to show cause why the twelfth interrogatory filed, and the commissioners named by the said complainant, shall not be suppressed, because the said interrogatory is contrary to the form of the 71st rule of the circuit court; and the commissioners named, or one of them, have been examined as witnesses in this cause under a former commission, and (as is believed) have been concerned, or employed by persons concerned, for the said Jno. Aspden, of London, or his representatives. And further, to show cause why the complainant, John A. Brown, shall not give security for costs, before the said commission, prayed for on his part, be granted or issued; and also to show cause why William B. Reed and Henry J. Williams, esquires, should not file their warrant of attorney from Mary Poole and Jannet Jones. Returnable on Monday, 28th September, at 10 o'clock; and all proceedings to be stayed in the mean time by the order of the court."

" Oct. 16. Proofs of publication of notice of rule of 14th September last, filed.

" Oct. 31. Objections to issuing commission overruled, and rule of 22d September dismissed, and time for filing cross interrogatories enlarged one week from this day.

" Nov. 16. On motion of Messrs. Reed and Williams, rule on Thomas Aspden, of Philadelphia, executor of John Aspden, &c., to show cause why the cross interrogatories, filed in this case, be not suppressed, as irregularly filed by the said Thomas Aspden, and as in themselves irrelevant and informal. Returnable on Saturday the 28th inst., at 10 a. m.

1847, Feb. 13. Interrogatories, e. p. claimant Thomas Aspden, and rule for commission, e. p. claimant, on fifteen days' notice, filed.

" Feb. 24. Exceptions to interrogatories, e. p. claimant, filed.

1847, April 5. Exceptions filed in this case allowed.

(Minute book.) April 5. "Sur exceptions filed by Messrs. Williams and Reed, to interrogatories in chief filed by Mr. Hoffman, on behalf of Thomas Aspden, administrator of John Aspden, of Lancashire, for commission to England. Mr. Hoffman not attending, on motion of Messrs. Williams and Reed, continued until Monday next. Afterwards, upon receiving and filing a note from Mr. Hoffman, on motion of Mr. Reed for John A. Brown, administrator of J. Aspden, the exceptions filed in this case are allowed."

" July 24. Commission to London, exit.

" Oct. 2. Ordered, that the docket in this case, and all the papers filed, be referred to the master, to inquire and report what is the present state of the case in reference to the parties and counsel before the court, and that he report particularly:

1st. Who are all the parties in the case before the court.

2d. By whom the parties are represented as counsel.

3d. The state of pleadings, and the issues to be determined.

And that he also report what papers, if any, ought to be printed. And that he report on or before the rule day in November next.

" Nov. 9. Commission to London, returned and filed.

" " 15. On motion of T. I. Wharton, esq., the record is amended by inserting the name of William B. Reed, esq., for the name of T. I. Wharton, in the entry of Nov. 8, 1843, so as to read as follows: "Mr. William B. Reed appears for the parties in the cause represented by Mr. James S. Smith." The entry of the name of T. I. Wharton having been made by mistake.

" Dec. 9. And now, December 9, 1847, on motion of Wm. B. Reed, esq., time for making and filing report of T. I. Wharton, esq., master in this case, enlarged until first Monday of February, 1848.

1848, Jan. 29. On motion of H. J. Williams, esq., the time for the master making his report in this case, enlarged to the first Monday in March next.

" March 2. Petition of John A. Brown, administrator of John Aspden, of London, praying to be made party to bill of revivor, filed.

" March 2. Petition of Eliza Thomson, Rebecca Van Schiver, and others, represented by Josiah Randall, esq., praying to be admitted parties, &c., filed.

" March 4. Petition of Sophia Harrison, executrix of George Harrison, praying to be admitted as a party under the bill of revivor, filed.

" March 14. Petition of Michael Reinhart and others, praying to be admitted parties, &c., filed by the master, (see endorsement.)

1848, March 14. Second petition of Michael Reinhart and others, praying to be admitted parties, &c., filed by the master, as above.

" March 14. Petition of Sarah R. Kirkbride and others, praying to be made parties, &c., filed as of February 29, 1848, by order of court.

" March 14. Petition of Edmund Hartley, and Thomas Adams, in right of his wife, praying to be made parties, &c., filed.

" March 14. Answer of Joseph Trotter, administrator, to the bill of revivor, filed.

" March 14. Report of the master on the reference of October 2, 1847, filed.

" March 14. And now, this fourteenth day of March, A. D. 1848, on motion of William B. Reed, esq., for administrator of John Aspden, of London, ordered, that the documents referred to in the report of the master, filed this day, be printed under the supervision of the master.

" March 16. Master's bill of costs filed, and ordered by the court that it be paid by the administrator.

" March 17. Ordered, that the master be directed to cause to be printed, for the use of the court, on the hearing of this cause, such records and papers on file in the clerk's office, and all such papers as may be in the possession of the administrator, belonging to the testator, and as may be desired by any of the parties litigant, or be deemed material by the master.

" April 3. And now, to wit, this third day of April, A. D. 1848, it being represented that the first paper book in this case, viz., the depositions taken in 1829, 1830, and 1831, by the master, is out of print, so that copies thereof cannot be obtained by the counsel and parties interested, it is ordered, that the master cause the same to be reprinted, and a sufficient number of copies prepared to answer present and future demands; the expense of such printing to be paid for out of the fund.

" April 20. Report of the master, on the references to him of March 14 and 17, 1848, filed.

" April 25. Master's bill of costs, filed.

" " " Mr. Sherman's bill, for printing paper book, filed.

" " " Ordered, that the administrator de bonis non pay the amount of the bills filed this day for auditor's fees and costs of printing report.

" April 29. Issue at law, as to question of domicil, &c., ordered by the court, (see minutes and files.)

" May 18. At a meeting of the counsel for the next of kin, Benjamin Tilghman, John M. Read, and Henry D. Gilpin, esqs., were designated the counsel by whom the trial shall be opened and argued on behalf of the next of kin; proceedings filed.

" April 19. Ordered, that the bill of printing incurred under the

order of court of the 29th April, be paid out of the fund in dispute.

1846, May 20. At a meeting of the counsel for the defendants, in the issue at law, William B. Reed, Henry J. Williams, and Josiah Randall, esqs., were designated as the counsel by whom the trial shall be opened and argued.

" May 22. Petition of Samuel Jackson, M. D., praying to be admitted as a party, filed.

" May 22. On motion, leave is granted to Josiah Randall, esq., to withdraw as counsel for Eliza Thompson and others.

" May 29. And now, May 29, 1848, it is ordered, that the docket entries and record in this case be referred to the master, in order that a correct statement may be made of all papers filed, orders made, and other proceedings in the case, from the commencement to the present time, and that the same be printed under his directions; the expense of the same to be borne by the fund. It is also ordered, that proofs and depositions may be taken by either party, before the master, upon five days' notice to the counsel of the opposite party, to try the issues ordered on the twenty-ninth of April, 1848.

" June 5. Petitions of Obed Welden, administrator of John Zane; and of Joseph Ellis and Evans C. Smith, executors of Isaac Zane, praying to be admitted as parties to the bill of revivor, read and filed, and ordered accordingly.

" June 5. Petition of Roger Hartley, John Hartley, Otho W. Minor, and Benjamin F. Black, administrator of James Hartley, and Peter Hartley, executor of Benjamin Hartley, praying to be admitted parties to the record, read and filed, and ordered that said parties be admitted as parties defendants.

" June 5. Petition of Joseph Ellis, administrator of Ann Ellis, and of Mahlon Doan and Rebecca, his wife, praying to be admitted as parties to the bill of revivor, read and filed, and ordered accordingly.

" June 5. Petitions of Joseph Hinchman, administrator of James Hinchman, also administrator of William Hinchman, of Joseph Scull, John H. Scull, and Thomas K. Stiles, praying to be admitted parties to the above suit, read and filed, and ordered by the court that said petitioners be admitted on the record as parties defendants.

" July 8. On motion of Josiah Randall, esq., on behalf of Samuel Jackson, administrator cum testamento annexo of John Aspden, of Lancashire, deceased, rule for a commission to London, England, on ten days' notice.

" July 8. Interrogatories for commission to London, filed.

" July 13. Cross interrogatories for commission to London, by D. P. Brown, esq., solicitor for Lippincott et al., filed.

" June 17. Cross interrogatories for commission to London, on behalf of James Jackson, administrator, &c., by Messrs. Tilgh-

man and Newbold, solicitors for certain of the next of kin claimants, filed.

1848, July 22. On motion of Mr. Budd, ordered, that the commission to London issue.

" July 22. Commission to London, exit.

" August 18. Master's and printer's bill, and order for the payment thereof, filed.

" August 23. Master's report, with the deposition of Samuel Nicholson, filed.

" August 26. George Griscom, esq.'s appearance for Thomas P. Hunter et al., children and heirs-at-law of Rose Hunter, late packer, entered and filed.

" August 28. Rule on behalf of the parties defendants in the issue, and of Samuel Jackson, administrator cum testamento annexo of John Aspden, deceased, for a commission to Blackburn, Lancashire, England, on ten days' notice, and interrogatories, filed.

" August 30. E. W. David, esquire's appearance for Eliza Thompson, Rebecca Vansciver, and others, entered and filed.

" August 31. Cross interrogatories under commission of August 28, 1848, to Blackburn, Lancashire, England, filed.

" Sept. 5. Cross interrogatories under commission of August 28, 1848, to Blackburn, Lancashire, England, by Messrs. Tilghman and Read, for certain of the next of kin and for plaintiff in the issue, filed.

" Sept. 7. Cross interrogatories under commission to Blackburn, England, by D. M'Laughlin, for Edward Hartley et al., filed.

" Sept. 9. On motion of T. A. Budd, esq., the court order the commission to Blackburn, Lancashire, England, to be issued, &c.

" Sept. 12. Commission to Blackburn, Lancashire, England, exit.

" Sept. 13. Exceptions on behalf of James M. Broom, esq., to the report of the master, under the order of 2d October, 1847, filed.

" Sept. 15. Commission to London returned, opened in open court and filed.

" Sept. 15. On motion of T. A. Budd and Josiah Randall, esq's, the court order the testimony taken under the commission to London, returned this day, to be published, and the same, with the documents of divestiture of interest referred to, be printed under the direction of the clerk, the expense to be paid out of the fund, as in the case of the other documents printed by order of the court.

" Sept. 19. The court grant leave to T. A. Budd, esquire, to withdraw his name from the record as solicitor of Samuel Packer.

" Sept. 25. On motion of B. Tilghman, esquire, for plaintiff in the feigned issue, the court grant leave that subpœnas duces tecum may be issued.

1848, Sept. 29. Report of the master, with the depositions of Joseph Roberts and Josiah Randall, esq., filed.

" Oct. 2. Master's account, filed.

" " 2. On motion of Mr. Randall, ordered, that the master's bill, this day filed, be paid by the executor out of the fund of the estate.

" Oct. 2. On motion of Mr. H. D. Gilpin, ordered, that the name of Samuel Jackson be substituted in the place of Thomas Aspden, as administrator cum testamento annexo of John Aspden, of Lancashire, one of the defendants in the feigned issue.

" Oct. 2. And now, a jury being called to try the feigned issue, come, to wit: John S. Crans, Benjamin Jeffries, James M. Owens, Peter Binder, Thomas Hemphill, sen., William Goode, Joseph R. Dickson, Thomas Temple, James S. Steelman, John Davis, Spencer Nolen, and William Allen, who are respectively sworn or affirmed.

" Oct. 3. C. Sherman's bill for printing paper book (commission from London, &c.,) amounting to $60 50, filed, and ordered to be paid out of the fund in the hands of Joseph Trotter, administrator with the will annexed of Matthias Aspden, deceased.

" Oct. 4. Agreement of counsel, that certain papers and documents, annexed to the master's report of September 18, 1837, shall be considered as true copies, &c., filed.

" Oct. 5. William H. Maurice's bill for binding and coloring certain books, for the use of court and counsel in this case, amounting to twenty dollars, filed, and ordered to be paid out of the fund in the hands of Joseph Trotter, administrator with the will annexed of Matthias Aspden, deceased.

" Oct. 6. Clerk's bill of costs filed, and ordered to be paid as above.

" Oct. 17. Account of Joseph Roberts filed, and ordered to be paid as above.

" Oct. 24. And now, the jurors aforesaid, upon their oaths or affirmations aforesaid, respectively do say, that they find in favor of the plaintiff as follows, to wit: 1st. That the domicile of origin of Matthias Aspden, the testator, was in Pennsylvania; 2d. That at the time of making his will, December 6th, 1791, his domicile was in Pennsylvania; 3d. That at the time of the death of the testator, the 9th of August, 1824, his domicile was in Pennsylvania; 4th. That between the 6th of December, 1791, and the 9th of August, 1824, the domicile of Matthias Aspden was in Pennsylvania.

1848, October 27. Motion, e. p. defendants, for new trial, and reasons, filed.

" Oct. 30. New trial refused.

1849, April 3. Petition of William Scull, by his attorney in fact, praying to be admitted a party to this suit, filed, and it was ordered accordingly by the court.

1849, April 5. Ordered, that G. W. Harris, esq., and Calvin Blythe, esq., have leave to withdraw as counsel for Sarah Vickers, as per note filed.

" April 28. Ordered, that the amount of Mr. Hopkinson's bill ($115 37) for a copy of the record filed in the Supreme Court, be paid by the administrator, &c., of Matthias Aspden, out of the fund of the estate.

" May 15. Job R. Tyson, esquire, by leave of the court, appears for Phœbe, Sarah, and David Vickers, and for Timothy Cavanagh, who claim to be parties, &c.

" June 29. Petition of John Brown Francis, administrator of Mary Harrison, to be admitted as a party under the bill of revivor, filed; and ordered accordingly.

" August 6. On motion of Mr. Gilpin, it is ordered that the opinion and decree of the court, made this day, be printed under the direction of the clerk of the court, the expenses thereof to be paid out of the fund in the hands of the administrator.

" August 6. Petition of Edmund Brown, and others, praying to be admitted parties to the bill of revivor, filed; and ordered accordingly.

" August 6. Petition of William Brick, executor, &c., and others, praying to be admitted parties to the bill of revivor, filed; and ordered accordingly.

" August 6. Petition of Zebiah Brick, administratrix, &c., and others, praying to be admitted parties to the bill of revivor, filed; and ordered accordingly.

" August 6. Petition of Matthias Hartley, administrator, &c., praying to be admitted a party, filed; and ordered accordingly.

" August 6. Petition of Joshua T. Browning, administrator, &c., praying to be admitted as a party, filed; and ordered accordingly.

" August 6. Petition of Gideon Gosnell, administrator, &c., praying to be admitted a party, filed; and ordered accordingly.

" August 17. Ordered, that the sum of twenty-eight $\frac{50}{100}$ dollars, (28 $\frac{50}{100}$,) be paid to C. Sherman, for printing 500 copies of the "Opinion of the Court," as per order of 6th inst., out of the fund in the hands of Joseph Trotter, esquire, administrator, &c., &c.

" September 24. And now, to wit, September 24, 1849, this case is referred to Thomas I. Wharton, esquire, as master, to report the facts necessary for a final decree, upon the principles decided in the opinion delivered in this case, upon the 6th day of August, 1849. The final decrees in relation to the bills filed by all those claiming as next of kin, being descendants of the maternal grand-uncles and aunts of the testator; and also the bills filed by those claiming under the heir at common law, are to await the coming in of the report of the master, or the further order of the court.

1849, October 27. Petition of David Hartley, and others, praying to be admitted parties, filed; and ordered accordingly.

" October 29. Opinion and direction of the court to the master, as to his report, filed.

" October 29. Minutes of the master, filed.

" November 10. Petition of J. A. Browne, executor of Aspden, filed; and the prayer of the petitioner refused.

1850, January 4. And now, January 4, 1850, on motion of John L. Newbold, esquire, attorney for Roger Hartley, David Hartley, Jesse Hartley, James Slonaker and Nancy, his wife, and others, petitioners and claimants in the above case, rule to show cause why the said parties should not have leave to issue a commission to Washington county, Pennsylvania, to take testimony, upon two weeks' notice; and that the master include the evidence taken under said commission in his report to the court.

1850, January 4. Interrogatories sur commission to Washington county, Pennsylvania, filed.

" January 7. Petition of Daniel Luse and Susanna, his wife, praying to be admitted as parties defendants, filed; and ordered accordingly.

" January 11. Petition of Lawson B. Stone, and of Thomas Balch, administrator of Thomas R. West and Thomas West Stone, praying to be admitted as parties defendants, filed; and it is ordered accordingly.

" Feb. 1. Petition of James P. Frazier, sen., administrator, of William Jones and Eliza Wilson, praying to be admitted a party defendant, filed; and ordered accordingly.

" Feb. 1. Petition of Rebecca K. Bartram, administratrix of Rebecca Fowler, deceased, praying to be admitted a party defendant, read and filed; and ordered accordingly.

" Feb. 1. On motion of J. L. Newbold, esquire, the rule for a commission to Washington county is amended, so as to include Greene county; and James A. Black, Charles A. Black, and Wm. Boone, esqrs., of Greene county, or either of them, are named as additional commissioners on the part of Roger Hartley and others.

" Feb. 2. Commission exit.

" March 1. Petition of Peter Pegg and others, praying to be made parties, filed; and it is ordered accordingly.

" March 1. Rule for commissions to Greenfield, Washington county, Pa., Uniontown, Fayette county, Pa., and New Lisbon, Columbiana county, Ohio, and interrogatories filed.

" March 9. And now, March 9, 1850, on motion of W. M. Tilghman, esquire, ordered by the court, that the master to whom this case was referred on the 24th September, 1849, do file his report on or before the first day of June next; and that all claimants, who shall not have established their claims on or

before the sixteenth day of May next, be excluded from any hearing before the master.

1850, March 14. Petition of Daniel Pegg, John Wilson, John Adams, and others, praying to be made parties, filed; and ordered accordingly.

" March 14. Rule for a commission on six days' notice to the State of Ohio, on behalf of Edward Hartley, James Pegg, and others, and interrogatories filed.

" March 21. Petition of Alfred Howell, administrator of Elizabeth Wilson, praying to be made a party, filed, and ordered accordingly; and ordered, also, that his name be included in the commissions about to issue to Washington and Fayette counties, Pa.

" March 21. Commission to Washington county, Pennsylvania, exit.

" March 21. Commission to Fayette county, Pennsylvania, exit.

" March 23. Commission to Columbiana county, Ohio, exit.

" March 25. Commission to the State of Ohio, exit.

" April 6. Petition of Jabez Burchard, assignee of Edmund Brown, a bankrupt, praying to be made a party, read and filed; and ordered accordingly.

" April 22. Commission to Washington and Greene counties, Pa., returned, opened, and filed.

" April 22. Commission to New Lisbon, Ohio, returned, opened, and filed.

" April 23. Clerk's bill of costs filed; and ordered that the amount thereof be paid out of the fund in the hands of the administrator.

" April 26. Petition of James Edgar, executor of Edward E. Packer, and others, praying to be made parties, filed; and ordered accordingly.

" April 27. Bill of George Plitt, as commissioner, &c., in this cause, filed; and ordered by the court that the amount thereof be paid by the administrator, &c., of the estate of Matthias Aspden, deceased, out of the fund of the estate.

" May 3. Commission to Columbiana county Ohio, returned, opened, and filed.

" May 3. Petition of J. West Nevins and others, praying to be made parties, filed; and ordered accordingly.

" May 6. Commission to Fayette county, Pa., returned and filed.

" May 13. Petition of George Rundle, administrator of Mary Bronson, praying to be made a party, filed; and ordered accordingly.

" May 15. Petition of Joseph Hinchman, administrator de bonis non of James and William Hinchman, praying to be admitted a party, filed; and ordered accordingly.

" May 15. Petition of Thomas Adams, administrator of Barsheba

Adams, his wife, deceased, praying to be admitted a party, filed; and ordered accordingly.

1850, May 17. Petitions of Ann Pardee and others, of John Hinchman and others, of Aaron Zane and Joseph Ellis, administrators of Samuel C. Zane, and of Aaron Zane and Joseph Ellis, administrators of Sarah Champion, praying to be admitted parties complainants, filed; and ordered accordingly.

" May 17. And now, May 17, 1850, on motion of W. M. Tilghman, esquire, ordered by the court, that the time prescribed by the order of ninth March last, for the filing the report of the master, be extended until the first day of July next, and that the master, so soon as the said report is prepared, do cause the same, together with the evidence taken by him, also the further directions given to him by this court on the 29th October last, the docket entries in the cause, since 22d July, 1848, and such other matters as he may deem relevant, to be printed, the costs thereof to be paid out of the fund.

" June 14. Suggestion of master, filed.

" June 14. And now, June 14, 1850, at the instance and suggestion, in writing, of the master, made this day, and ordered to be filed, setting forth that he finds it inconvenient to make and file his report at the time fixed by the last order of the court, consistently with a due consideration of the case, and with the rule of this court, requiring two weeks notice to be given to the counsel of the preparation of the report; it is ordered, that the time for filing the report be enlarged until the first Monday in September next; and the master, having certified that he considered it material, for a satisfactory decision of the inquiry respecting the real estate, that further time should be given for the production of evidence respecting the same, on the part both of the paternal and maternal half blood; and having suggested the first Monday in August next as a suitable limit for the same, it is ordered that the master be at liberty to receive any such evidence until the first Monday in August next.

1850, June 15. C. Sherman's bill for printing paper books, amounting to $167 75, presented and filed.

" June 15. Ordered, that C. Sherman's bill for printing, this day filed, be paid by the administrator, &c., out of the fund of the estate in his hands.

" August 2. Time for filing master's report enlarged until the third Monday in September next; and that evidence relating to the real estate may be taken before the master until the twelfth day of August, instant.

" September 4. Ordered, that the time for filing the master's report be enlarged to Monday, the 23d of September, instant.

" September 21. Master's report, under reference of September, 1849, filed.

1850, September 21. Schedules B, C, D, and E, accompanying master's report, and statements of the assets, filed.

" September 21. Evidence taken by the master, under the reference of September, 1849, filed.

" September 21. Supplement to the master's report, under reference of September, 1849, with the exceptions to the report, filed.

" September 27. Master's bill, and bill for printing master's report, filed.

" September 27. Ordered, that the master's and printer's bills, this day filed, be paid by the administrator de bonis non, &c., out of the funds of the estate in his hands.

" October 1. C. Sherman's bill for printing, filed, and ordered by the court that the amount thereof be paid by the administrator, &c., out of the funds in his hands.

" October 29. Exceptions to master's report, filed on 21st September, overruled, and report confirmed. (Minute book.) "And now, October 29, 1850, the exceptions to the report of the master, filed September 21, 1850, having been argued by counsel, and it being agreed by said counsel, that the date of the birth of the testator, Matthias Aspden (incidentally referred to in said report, as being involved in some uncertainty,) was in fact the 21st day of November, A. D. 1748; it is ordered by the court, that the said exceptions be overruled, and the report confirmed."

" November 1. And now, to wit, Friday, November 1, 1850, this case came on to be argued on the question arising between the heirs a parte paterna and those a parte materna, and whether the estate of Matthias Aspden should be distributed into three shares, according to the first hypothesis in the master's report, or into thirty-five shares, according to the second.

" November 11. Petitions of Charles Shaler, administrator of John Hartley; Jacob S. Brick, administrator cum testamento annexo of Bathsheba Brick; Joshua P. Browning, administrator of Elizabeth Fortiner, and also administrator cum testamento annexo of Thomas B. Hartley; Zebiah Brick, administratrix of John Brick; Abraham Kirby, administrator cum testamento annexo of Elizabeth Brick; Joseph Ellis and Evan C. Smith, executors of Isaac Zane; and Frederick G. G. Frazer, administrator de bonis non of Eliza Wilson and Miriam Jones, praying to be admitted parties to the above suit, read and filed; and ordered by the court, that said petitioners be admitted on the record as parties defendants.

" November 11. And now, 11 November, 1850, the opinion of the court is delivered by the Hon. Justice Grier, upon the question argued by counsel on the first of November, instant; and thereupon it is ordered, adjudged, and decreed, that the defendant, Joseph Trotter, administrator de bonis non cum

testamento annexo of Matthias Aspden, deceased, do account for, pay over, transfer, and deliver, the entire balance of the personal estate of the said Matthias Aspden, which has come to his hands to be administered, after paying the expenses of administration and the costs of this suit, which are hereby ordered to be paid out of the said fund, to the following named persons, being the issue of the brothers and sisters of the half blood of the said Matthias Aspden, and his heirs-at-law, or their representatives, in the following proportions and amounts, the whole being divided into thirty-five parts or shares, to wit:

(See minutes and files for list.)

And it is further ordered, adjudged, and decreed, that the bills and petitions, so far as they relate to the other complainants and petitioners, who are claimants before the court, including the bills and petitions filed by all those claiming as next of kin, being descendants of the maternal grand-uncles and aunts of the said Matthias Aspden, and also the bills and petitions filed by those claiming under the heir at common law, and all other claimants before the court, however appearing, be dismissed without costs.

1850, November 11. And now, 11 November, 1850, it is ordered by the court, that the security required on appeal shall be two hundred dollars in each appeal, to be given according to the existing rules.

" November 11. And now, 11 November, 1850, it is ordered, that the clerk shall cause to be printed all the minutes and docket entries in this cause, not already printed, with the opinion and decree of the court, the costs whereof to be paid out of the fund in the hands of the administrator.

" November 14. And now, 14 November, 1850, it is ordered by the court, that the recognisances on the appeals in the above case be given, in the sum of two hundred dollars, to Thomas H. White, one of the appellees, for the use of himself, and all the other appellees in the above case, according to their respective interests in the decree of the court; and that be approved of as surety.

Nov. 14. It is further ordered, that the clerk collect the papers, documents, and testimony given in evidence during the different stages of this case, and prepare the record on the appeal.

" Nov. 14. Appeal of John A. Brown, administrator of John Aspden, of London, from the decree of the court, filed; appeal allowed, and William E. Bowen approved as security in the sum of two hundred dollars.

" Nov. 14. Recognisance of John A. Brown and William E. Bowen to prosecute appeal, filed.

1850 Nov. 15. Appeal of Samuel Jackson, administrator d. b. n. c. t. a. of John Aspden, of Lancashire, from the decree of the court, filed; appeal allowed, and John Aspden and Michael Molloy are approved as securities in the sum of two hundred dollars.

" Nov. 15. Recognisance of Samuel Jackson on appeal, filed.

" Nov. 15. And now, 15th November, 1850, it is ordered by the court that the recognisances in all appeals in the above case, which may be entered by parties claiming as the issue of Mary Harrison, (sister of the testator Matthias Aspden, of the half blood ex parte paterna,) be severally given in the sum of two hundred dollars to Roger Hartley, for the use of himself and all the other appellees in the above case, claiming as issue of said testator's brothers and sisters of the half blood ex parte materna, according to their respective interests in the decree of the court.

" Nov. 15. Appeal of James McMurtrie and Rebecca, his wife, from the decree of the court, filed; appeal allowed, and James McMurtrie, junior, and Richard S. Smith, are approved as securities in the sum of two hundred dollars.

" Nov. 15. Recognisance of James McMurtrie on appeal, filed.

" Nov. 16. Appeal of George J. Naylor and James E. Packer from the decree of the court, filed; appeal allowed, and George J. Naylor and Charles Carr are approved as securities in the sum of two hundred dollars.

" Nov. 16. Recognisance of George J. Naylor and James E. Packer to prosecute appeal, filed.

" Nov. 18. And now, 18th November, 1850, on motion of T. A. Budd, esquire, the clerk is hereby directed to have reprinted the opinion of the hon. Justice Baldwin, delivered in this case on the 26th of December, 1833, from the copy contained in the paper books of the court.

" Nov. 19. Appeal of Thomas H. White from the decree of the court, filed; appeal allowed, and Richard S. Smith and Thomas F. Wharton are approved as securities in the sum of two hundred dollars.

" Nov. 19. Recognisance of Thomas H. White on appeal, filed.

" Nov. 19 Appeal of Thomas H. White, executor of Elizabeth McPherson, from the decree of the court, filed; appeal allowed, and Richard S. Smith and Thomas F. Wharton are approved as securities in the sum of two hundred dollars.

" Nov. 19. Recognisance of Thomas H. White, executor of Elizabeth McPherson, on appeal, filed.

" Nov. 19. Appeal of Thomas Aspden, executor of John Aspden, of Lancashire, as said executor, and in his own right, from the decree of the court, filed; appeal allowed, and George Ludwick is approved as security in the sum of two hundred dollars.

" Nov. 19. Recognisance of Thomas Aspden and George Ludwick to prosecute appeal, filed.

1850, Nov. 20. Ordered, that the amount of the bills rendered for executing the commissions to London, returned and filed on the 11th of April, 1831, and the 15th of September, 1848, be paid by the administrator. (See minutes and files.)

" Nov. 21. Appeal of George Rundle, administrator of Mrs. Mary Bronson, from the decree of the court, filed; appeal allowed, and Thomas H. White and Henry Reed are approved as securities in the sum of two hundred dollars.

" Nov. 21. Recognisance of George Rundle, administrator of Mrs. Mary Bronson, on appeal, filed.

" Dec. 4. Ordered, that there be paid to the clerk, on account, for making up the record in this case, such reasonable sum as may appear to have been justly earned.

" Dec. 9. Appeal of Sophia Harrison, executrix of George Harrison, deceased, from the decree of the court, filed; appeal allowed, and J. Francis Fisher is approved as security in the sum of two hundred dollars.

" Dec. 9. Recognisance of Sophia Harrison, executrix of George Harrison, deceased, on appeal, filed.

" Dec. 16. C. Sherman's bill for printing docket entries, opinions of Justices Baldwin and Grier, and final decree, filed.

" Dec. 16. Ordered, that the amount of C. Sherman's bill, this day filed, be paid by the administrator, &c.

" Dec. 18. Ordered, that twelve hundred dollars be paid to the clerk for making up the records on the appeals, by the administrator, &c., on account.

1851, Feb. 25. Petition of J. Packer, Hannah Chase, and Mary Jennings, praying to become parties, filed by order of court.

" May 10. Appeal of John Brown Francis, administrator of Mary Harrison, deceased, from the decree of the court, filed; appeal allowed, and J. Francis Fisher is approved as security in the sum of two hundred dollars.

" May 10. Recognisance of John Brown Francis, administrator of Mary Harrison and J. Francis Fisher, on appeal, filed.

" May 23. Record transmitted to the Supreme Court of the United States.

UNITED STATES OF AMERICA,
Eastern district of Pennsylvania, sct.

I, George Plitt, clerk of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, do hereby certify the foregoing to be a true and faithful copy of the docket entries, with occasional extracts from the minutes, in the above entitled cause.

In testimony whereof I have hereunto subscribed my name, and affixed the seal of the said court, at Philadelphia, this twenty-
[L. S.] third day of May, A. D. 1851, and in the seventy-fifth year of the independence of the said United States.

GEORGE PLITT, *Clerk, C. C.*

Pleas before the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit—of April session, 1828, No. 1.

It is thus contained:

Be it remembered, that heretofore, to wit, on the twenty-eighth day of February, A. D. eighteen hundred and twenty-eight, Samuel Packer, by his solicitor, William Rawle, junior, esquire, filed of record in the said court his bill of complaint against Henry Nixon, executor of Matthias Aspden, deceased, in the words and of the tenor following, to wit:

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, esquire, a citizen of the State of Pennsylvania, executor of the testament and last will of Matthias Aspden, esquire, late a citizen of the same State. } In equity.

To the honorable the judges of the circuit court of the United States, of the third circuit, in and for the eastern district of Pennsylvania.

On the equity side of the said court:

Humbly complaining, sheweth unto your honors, your orator, Samuel Packer, a citizen of the State of New Jersey, that, on the sixth day of December, in the year of our Lord one thousand seven hundred and ninety-one, one Matthias Aspden, esquire, a citizen of the State of Pennsylvania, made and executed his last will and testament, bearing date the same day and year, wherein and whereby he gave and bequeathed all his estate, real and personal, to his heir-at-law; and of the said will appointed his friends, George Roberts, Abraham Liddon, and the president of the old bank at the time being, executors, as by the said will, a true copy whereof is to this bill annexed, and which your orator prays may be taken as part thereof, will more fully appear; after which, to wit, on the day of August, in the year of our Lord one thousand eight hundred and twenty-four, the said Matthias Aspden departed this life, not having altered, cancelled, or revoked his said will; and the said George Roberts and Abraham Liddon being then deceased, and Henry Nixon, esquire, a citizen of the State of Pennsylvania, being then president of the Bank of North America, which bank the testator meant and intended by the description of the old bank, the said Henry Nixon caused the said will to be duly proved according to the laws of Pennsylvania; and, having received letters testamentary thereon, took upon himself the burden of the execution thereof, and hath possessed himself of all the goods, chattels, and other personal estate of the said testator, to a very large amount. And your orator expressly charges, that he is the true and only heir-at-law of the said Matthias Aspden, and that no other person than himself is entitled to claim or receive the benefit of the said devise and bequest; and he hath repeat-

edly applied to the said Henry Nixon to have an account of all and singular the personal estate of the said Matthias Aspden, and where and how the same is situated, and what is the true and exact amount thereof, and to have the amount thereof paid to him, deducting therefrom the just and reasonable charges of the said executors. But now, so it is, may it please your honors, that the said Henry Nixon, combining and confederating with others, to your orator unknown, whose names, when discovered, he prays leave to insert, with apt words to charge them as parties, denies that your orator is the heir-at-law of said Matthias Aspden, or that he is in any way entitled to the benefit of any of the testamentary dispositions of the said Matthias Aspden, and refuses to render him any account of the assets, and to pay him any part thereof; all which actings and doings of the said Henry Nixon are contrary to equity and good conscience, and greatly to your orator's prejudice.

In tender consideration whereof, and forasmuch as your orator cannot have plain, adequate, and complete remedy at law; to the end thereof, that the said Henry Nixon and his confederates, when discovered, on their oaths or affirmations, full, direct, and true answers may make to all and singular the matters and things hereinbefore set forth, as if they had been particularly interrogated thereon; and that the said Henry Nixon may render and set forth a just and true account of all and singular the personal estate of the said Matthias Aspden, and where and how the same is situate, and whether there are any and what debts due or claimed to be due therefrom, and may be decreed to pay to your orator the balance of the said moneys in his hands belonging to the said estate, to which your orator is justly entitled; and that your orator may have such further relief in the premises as is consistent with equity and good conscience, and to this honorable court shall seem meet. May it please your honors to grant a writ of subpœna, to be directed to the said Henry Nixon, commanding him to be and appear on the first day of the next session of this honorable court, then and there to answer all and singular the premises, and to stand to and abide such order and decree, in relation to the premises, as to the court shall seem meet.

WILLIAM RAWLE, Jr., *for complainant.*

Answer of respondent.

Afterwards, to wit, on the fourth day of October, in the year aforesaid, comes the respondent, Henry Nixon, by his solicitors, John Seargent and J. S. Smith, esquires, and presents his answer, which answer is filed, and is in the words and of the tenor following, to wit:

SAMUEL PACKER, a citizen of the State of New Jersey,
versus
HENRY NIXON, a citizen of the State of Pennsylvania, executor of Matthias Aspden, esquire, a citizen of Pennsylvania.

In the circuit court of the United States, in and for the district of Pennsylvania, and third circuit. April sessions, 1828, No. 1. In equity.

The answer of Henry Nixon, the defendant, to the bill of complaint of Samuel Packer, complainant.

This defendant, saving and reserving to himself all benefit and advantage of exception, or otherwise, to the said bill of complaint, for answer to the said bill, or to so much thereof as this defendant is advised it is material or necessary for him to make answer unto, answers and says, that he believes and admits that Matthias Aspden, the testator in the said bill named, at Philadelphia, duly made and executed his last will and testament in writing, and three codicils thereto, all bearing date the sixth day of December, one thousand seven hundred and ninety-one; and that such will and codicils are in the words and figures, or to the purport and effect, in the paper annexed to the said bill set forth; but, for greater certainty as to the date and contents of said will and codicils, this defendant craves leave to refer thereto. And this defendant says, that the said testator deposited his said will and codicils for safe custody in the cashier's vault of the Bank of North America, at Philadelphia, known as the old bank, where the same were found after his decease. And the defendant believes it to be true that the said testator departed this life on or about the ninth day of August, one thousand eight hundred and twenty-four, in the city of London, without having revoked or altered his said will and codicils. And the defendant further answering says, that George Roberts and Abraham Liddon, in the said will respectively named, both died in the lifetime of the said testator; that the defendant, at the time of the death of the said testator, was the president of the Bank of North America, at Philadelphia, known as the old bank. And the defendant admits it to be true, that, soon after the death of the said testator, to wit, on the nineteenth day of November, eighteen hundred and twenty-four, this defendant duly proved the said will and codicils in the office of the register for the probate of wills, and granting letters of administration for the city and county of Philadelphia, and received letters testamentary thereon; and that the defendant also duly proved the said will and codicils in the prerogative court of Canterbury, in England, and obtained probate thereto from that court. And this defendant admits it to be true, that, as executor as aforesaid, he has possessed himself of all the personal estate and effects of the said testator in the United States, or of so much thereof as has come to his knowledge; a true account of which is in the schedule hereto annexed, marked A. And this defendant has paid the charges of proving the said will, at Philadelphia, and other charges incident thereto, and six of the legacies, (the others not having yet been claimed,) bequeathed by the said will—a true account of which payments is in the schedule hereto annexed, marked B; and that, as executor, other charges must be incurred in managing and settling the estate—the amount of which cannot now be ascertained; and that this defendant, as executor, will be entitled to a commission for his services. And this defendant further answering says, that he believes it to be true that the said testator was, at the time of his death, (among other descriptions of property,) possessed of property in the English funds, that is to

say, £4,000 bank stock; £10,000 three per cent. consolidated bank annuities; £12,500 reduced three and a half per cent. bank annuities; and £3,500 new four per cent. bank annuities; and that the said testator, also, was possessed of East India stock, and also of South Sea stock to a considerable amount, that is to say, £3,000 East India stock and £5,000 South Sea stock. And this defendant believes that the said testator died possessed of other personal property to a considerable amount, and particularly of the sum of £790 3s. 5d. in the hands of his bankers, Messrs. Hoare, of London; but that no part of the property of the said testator, except that in the United States of America, as before stated, has come to the hands or possession of this defendant. That the whole of the property of the said testator in England is claimed by John Aspden, of London, as entitled thereto, under the devise of the said testator, as his heir-at-law; and that the said John Aspden has filed a bill in the court of chancery, in England, against this defendant, as executor of the said testator, and has, by the injunction of the said court, restrained and prevented this defendant, and his agents, from obtaining possession of any part of the property in England, of which the said testator died possessed, further than that his attorneys, S. Williams and J. Sterling, received the sum of £300, being one-half year's dividend on £3,000 East India stock, belonging to the testator. That the expenses of proving the will of the said testator, in England, amounted to £715 17s. 10d., to pay which in part the said sum of £300 was applied by Messrs. Williams and Sterling, and the residue, £415 17s. 10d., was paid out of the sum in the hands of Messrs. Hoare, the testator's bankers. The said suit in chancery, by the said John Aspden, is yet pending and undetermined. This defendant has annexed to this his answer a copy of the bill filed by the said John Aspden, being exhibit C. And this defendant further answering says, he does not know, and is unable to answer, from his belief or otherwise, whether the said testator left the complainant his heir-at-law, or whom he left his heir-at-law. But this defendant further answering says, that the said John Aspden, of London, claims to be heir-at-law, and as such entitled to the residue of the said testator's property; and that there are many persons residing in the United States of America who claim to be next of kin to the said testator, and as such to be entitled to distributive shares of the estate. That this defendant is not able from his own knowledge to name all the persons who so claim to be the next of kin, but that he has annexed to this his answer a schedule, marked D, which he prays may be taken as part of his answer, containing the names of some of the persons so claiming to be next of kin, and the manner in which they, or some of them, have alleged to this defendant they are connected with the said testator. This defendant further answering says, that three suits have been instituted against him, as executor of the said testator, in the district court of the city and county of Philadelphia, by persons claiming to be next of kin to the said testator, to wit, one to December term, 1826, by Stacy Kirkbridge and Sarah, his wife, late Sarah Hammett; another, to the same term, by James Packer;

and the third, to September term, 1827, by Job Packer, which suits are still pending and undetermined. And this defendant further answering says, that he can neither admit nor deny that the said testator was a citizen of Pennsylvania, as alleged in the said bill. That, from information, he believes that the said Matthias Aspden, the testator, was born in or about the year 1756, at Philadelphia, then being the place of residence of his parents; that he continued to reside there, and afterwards was engaged in business at Philadelphia as a merchant, with some success, before he was twenty-one years of age. Upon the breaking out of the war between Great Britain and America, in the year 1776, or some time in that year, being still a minor, he went to England, with what view this defendant, from his own knowledge, is not able to say; but he believes that he went with an impression that the power of Great Britain must soon prevail in putting down the resistance made in America. That the said testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stock, or on other securities; that he made his will, and the codicils thereto, at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the testator went back to England as his home, or only for the purpose of superintending his property, and whether the testator did in fact change his domicil, this defendant (save and except as appears by the facts) doth not know, and is unable to answer. But this defendant believes that the said testator, when in England, considered himself as an alien, and as such claimed to have returned the tax taken from his dividends while he was absent from England, according to the provisions of the law exempting aliens from the tax if not resident in England. That he died in King street, Holborn, London. And this defendant says that he submits to the judgment of the court whether, upon the true construction of the said will of the said testator, the next of kin of the said testator are entitled under the same to take the residue of the personal estate and effects of the said testator; or whether the complainant, if he be the heir-at-law, and if not, whether any other person as heir-at-law of the said testator, is entitled to take the same under the said will as such heir-at-law. And this defendant submits to act as this honorable court shall direct, being indemnified and paid his costs, charges, and expenses therein. And this defendant denies all combination and confederacy with which he is charged in and by the said bill; without this, that, &c.

HENRY NIXON.

Sworn to, this third day of October, eighteen hundred and twenty-eight, before me, one of the aldermen of the city of Philadelphia.

WILLIAM MILNOR,
Alderman.

Schedule A, referred to in the preceding answer.

Account of the personal estate and effects in America of Matthias Aspden, deceased, which have come to the knowledge and possession of Henry Nixon, his executor:

In three per cent. stock of the United States - -	$68,632 01
In seven per cent. stock of the United States - -	10,000 00
Twenty shares of stock of the Bank of the United States - - - - - -	2,000 00
Cash received for back dividends in loan office, to January 1, 1825 - - - - - -	2,669 19
Cash received for back dividends from the Treasury of the United States to January 1, 1825 - -	1,994 06
Cash received from S. Gerard, being balance of his account with the testator - - - -	361 89
Cash received, being dividends on Government stock, from January 1, 1825, to April 5, 1826 - -	3,793 58
Cash received, being dividends of stock of the Bank of the United States, from Jan. 1, 1825, to April 5, 1826	160 00
Cash received, being dividends on Government stock, from April 5, 1826, to July 5, 1828 - - -	4,765 12
Cash received, being dividends of stock of the Bank of the United States from April 5, 1826, to July 5, 1828	310 00
Cash received for interest on notes discounted - -	663 60
Cash received from S. Gerard for extra dividends from old Bank of the United States - - -	160 00
	$95,509 45

Note.—Of the above sum of $95,509 45, there remains in the Treasury of the United States the certificates for the sum of $10,277 71 of three per cent. stock of the United States, and the certificates for the sum of $9,800 of the same having been lost or mislaid during the testator's lifetime, are not in the possession of his executor. The interest on both these sums is paid to the executor, and new certificates may, it is believed, be obtained. The sum of $10,000 of seven per cent. United States stock has been paid off by the Government. The sum of $9,000 was reinvested in six per cent. United States stock, which, after deducting the premium and brokerage, produced $8,836 84, which amount has since been paid off.

Schedule B, referred to in the annexed answer.

Account of payment made by Henry Nixon, executor of the will of Matthias Aspden, deceased.

Paid to Ashur Hartley, a son of Benjamin Hartley, deceased, his legacy - - - - -	$266 67
Paid to Rebecca Burroughs, a daughter of said Benjamin Hartley, her legacy - - - - -	266 67

Paid to Bathsheba Brick, another daughter of said Benjamin Hartley, her legacy - - - - -	266 67
Paid to William Hinchman, a son of Ann Hinchman, deceased, his legacy - - - - -	266 67
Paid to Joseph Hinchman, administrator of James Hinchman, who died after M. Aspden, a son of Ann Hinchman, his legacy - - - - -	266 67
Paid to —— Brick, another daughter of said Benjamin Hartley, her legacy - - - - -	266 67
Cash paid, expenses of proving the will in Philadelphia, and other charges incident thereto, including fees to counsel - - - - -	701 74
Cash paid, sundry incidental charges - - -	50 77
	$2,352 53

Schedule C, referred to in the annexed answer.

To the right honorable John, Earl of Eldon, lord high chancellor of Great Britain:

Humbly complaining showeth unto your lordship, your orator, John Aspden, of Old street, in the parish of St. Luke, in the city of London, gentleman, the heir-at-law of Matthias Aspden, (the testator hereinafter named,) that the said Matthias Aspden, of King street, Holborn, London, was formerly a merchant in Philadelphia, in North America, but quitted that place when the war broke out between this country and America, in the year 1776, and came to and resided in this country until the time of his death hereafter mentioned; except that he went to America after the conclusion of the said war, and at one or two other times, but only to transact or settle his affairs there, and always returned to this country as to his home, after such affairs were settled; and the said Matthias Aspden, during his residence in this country as the place of his domicil, invested large sums of money in the purchase of stock and bank annuities in the funds of this country, and also in the funds of the East India and South Sea companies; and the said Matthias Aspden departed this life on the 9th of August, 1824, (being then resident in King street, Holborn, aforesaid, and domiciled in this country;) and your orator further showeth unto your lordship, that the said Matthias Aspden, in his lifetime, and at the time of making his will hereinafter mentioned, was possessed of very considerable property, and in particular of considerable property in the English and American funds, and of various other kinds of personal estate and effects, to a very considerable amount in the whole; and in his lifetime he duly made and executed his last will and testament in writing, in the three codicils thereto, bearing date the 6th day of December, 1791, and which are in the words and figures following, viz: "These are to certify, that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and

personal, to my heir-at-law, first paying all my just debts and funeral expenses, and the following legacies first to each of the children of my half-brother, Benjamin Hartley, deceased, that may be alive at my death, the sum of one hundred pounds to each, Pennsylvania currency; and to my half-sister, Bersheba Zane, wife of Elnathan Zane, the sum of £400, Pennsylvania currency; both the above living, or did live, near Haddonfield; and to my half-brother, Roger Hartley, living at present in Lancaster county, the sum of 300 pounds of the like currency. Witness my hand, this 6th day of December, 1791, Matthias Aspden. "Philadelphia," Matthias Aspden. "Least any question should arise about the legitimacy of my birth, it is my will that my estate, real and personal, should go to the party who would be my lawful heir in case there might arise no doubt on that head. It is firmly believed *by*, from the best information, that my birth was after marriage. Philadelphia, December 6, 1791. I do further give £100 currency to each of the children of my deceased half-sister, Ann Hinchman, that may be living at my death December 6th, 1791." "The last will of Matthias Aspden. I do hereby appoint my friends, Mr. George Roberts and Mr. Abram Liddon, with the president of the old bank at the time being, to be my executors to this my last will. Matthias Aspden." Note. My property in England is as follows: £12,500 in the 4 per cent. stock; £3,000 in the 5 per cent. stock; £1,800 in the three per cent. stock, as in and by the probate of the said will when the same shall be produced to this honorable court, (reference being thereunto had,) will appear; and your orator further showeth unto your lordship, that the said testator afterwards departed this life on the 9th day of August, 1824, without having revoked or altered his said will, and without issue, he never having been married; and your orator further showeth unto your lordship that the said George Roberts and Abraham Liddon both died in the lifetime of the said testator, and that the president of the bank at Philadelphia, at the time of the death of the testator, was Henry Nixon, esquire; and the said testator, by the expressions in the third codicil to his said will, president of the old bank, meant the president of the bank at Philadelphia; and the said Henry Nixon soon after the death of the said testator, (viz., on the 9th day of November last,) proved the said will in the proper ecclesiastical court at Philadelphia, and has lately also proved the same will in the proper ecclesiastical court in this country, and has obtained probate thereof from the prerogative court of the archbishop of Canterbury, (bearing date the 27th July now inst.,) and thereby become the legal personal representative of the said testator; and the said Henry Nixon has possessed himself of all the personal estate and effects of the said testator in America, and elsewhere, except in this country, and which are much more than sufficient to pay and satisfy all the funeral and testamentary expenses, debts and legacies, of the said testator, and also to leave a very considerable surplus; and your orator further showeth unto your lordship, that the said testator was at the time of his death (among other descriptions of property,) possessed of property in the English funds, that is to say:

£4,000 bank stock, £1,000 three per cent. consolidated bank annuities, and £12,500 reduced three and a half per cent. bank annuities, and £3,500 new four per cent. bank annuities, and such stock and annuities as are still standing in the books of the governor and company of the Bank of England, with an arrear of dividends thereon respectively; and the said testator also was possessed of East India stock, and also South Sea stock, to a considerable amount, that is to say, £3,000 East India stock, and £5,000 South Sea stock; and the said testator died also possessed of other personal estate and effects of various descriptions, to a large amount in the whole, and particularly he had money in the hands of Messrs. Hoare, of Fleet street, London, his brokers, to the amount of £790 3s. 5d., and also securities and other effects; and your orator further showeth unto your lordship, that the said testator left your orator his heir-at-law, and as evidence thereof your orator showeth that Thomas Aspden of Simondstone, in Lancashire, was the common ancestor of both the said testator and your orator, and died many years ago, (being before the birth of your orator, who is now aged eighty-five years,) having had issue twelve children, the eldest of whom was John Aspden, who died and was buried at Deptford, in Kent, in the year 1754, leaving issue only one son, viz., Andrew Aspden, who died and was also buried at Deptford in the year 1771, leaving your orator his only child and heir-at-law; and your orator further showeth unto your lordship, that the name of the father of the said testator was Mathias Aspden, who was the third son of the said Thomas Aspden, who was the common ancestor; and that the said Mathias Aspden, the father, being resident in America, married there an American woman, whose Christian name was Rebecca, and had issue by her, some time after the said marriage, an only child, viz., the said testator; and said Mathias Aspden, the father, died in or about the year 1765, in Philadelphia aforesaid, leaving the said testator his only lawful issue him surviving; so that upon the failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, your orator (as the grandson and heir-at-law of the said John Aspden, who was the eldest brother of the said Mathias Aspden, the testator,) became on the death of the said testator his heir-at-law; and your orator further showeth unto your lordship, that he is advised and submits that, as such heir of the said testator, he is entitled, under the aforesaid will of the said testator, to the residue of the personal estate and effects of the said testator, after the payment of his funeral and testamentary expenses, debts, and legacies, and which residue amounts to a very large sum; and your orator further showeth unto your lordship, that the said Henry Nixon (although he has proved the said will in this country) always has been and still is resident at Philadelphia aforesaid, in North America, and he has signed and sent over to Samuel Williams and John Sterling, both of the city of London, merchants, a general power of attorney to collect, get in, and receive all the personal estate and effects of the said testator in this country,

with a direction to them to remit to him, the said Henry Nixon, in America, all such personal estate and effects of the said testator, and when as soon as they are received by them, the said Samuel Williams and John Sterling; and the said Henry Nixon threatens and intends to misapply such personal estate and effects, and (instead of accounting with and paying to your orator the residue of the said testator's personal estate and effects as the residuary legatee under the said will) to pay and apply the same in a manner which is in direct opposition to the said will; and your orator further showeth unto your lordship, that he has caused notice of the aforesaid rights under the said will to be given to the said Samuel Williams and John Sterling, and has requested them not to receive or remit such personal estate and effects of the said testator to the said Henry Nixon; but the said Samuel Williams and John Sterling threaten and intend, under the said power of attorney, to sell out the said bank stock and bank annuities, and likewise the said India stock and the said South Sea stock, and also to receive the money, securities, and effects of and belonging to the said testator at the said Messrs. Hoare, his bankers, and all the other personal estate and effects of the said testator in this country, and to remit the produce of the said stocks and annuities, and what he shall so receive in respect of the other personal estate and effects of the said testator to the said Henry Mixon; and the said governor and company of the Bank of England, and the East India company, and the South Sea company, intend respectively to permit the aforesaid respective transfers of such respective quantities of stock and annuities to be made by the said Samuel Williams and John Sterling, unless they are prevented from so doing by the order and injunction of this honorable court, although they have been respectively applied to by your orator not to permit such respective transfers; and the said Messieurs Hoare likewise intend to pay over and part with, and to the said Samuel Williams and John Sterling, the money securities and effects of the said testator in their hands, unless restrained by the order of this honorable court from so doing. And your orator further showeth unto your lordship, that it is alleged by the said Henry Nixon, and which your orator believes to be the case, that there are certain persons in America, who claim to be next of kin to the said testator, as being brother or sisters of his half blood, or as being descended from them, and in that character claim to be entitled, under the said will of the said testator, to the residue of his personal estate and effects; but your orator further showeth, that (if such be the case) your orator is unable to set forth when such brothers or sisters of the half blood (if any such) are living or dead, or if dead, whether they have left any children or child, or who are or is their personal representatives or representative. And your orator further showeth unto your lordship, that your orator is advised, and humbly submits, that upon the true construction of the said will of the said testator, the next of kin of the said testator are not entitled under the same will to take the residue of the personal estate and effects of the said testator; but that your orator is entitled to the same under the said will as the heir-at-law of the said testator. And your orator further showeth unto

your lordship, that under such circumstances your orator was in hopes the said Henry Nixon would have accounted with your orator for the residue of the personal estate of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies. But now, so it is, may it please your lordship, that the said Henry Nixon, combining and confederating with the said defendants, Samuel Williams and John Sterling, and with the said governor and company of the Bank of England, and with the honorable company of merchants trading to the East Indies, and with the honorable company of merchants trading to the South seas, and with the said Messieurs Henry Hoare, Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and to and with divers other persons at present unknown to your orator, but whose names, when discovered, your orator prays may be herein inserted, with apt and proper matter to charge them as parties hereto; and contriving how to injure and oppress your orator in the premises, positively refuses to account with and pay to your orator the residue and effects of the said testator, but threatens and intends to withdraw from this country, by means of his aforesaid agents, the said defendants, Samuel Williams and John Sterling, all the personal estate and effects of the said testator in this country, and to apply the same contrary to the said will of the said testator. And your orator further charges and submits to this honorable court, that the said defendants, the governor and company of the Bank of England, and the said East India company, and the South Sea company, ought to be respectively restrained by the order of this honorable court, from permitting any transfer to be made by the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling, of the said respective stock and annuities of the said testator, standing in his name in their respective books; and that the said defendants, Messieurs Hoare, ought likewise to be restrained from parting with the said money, securities, and effects of the said testator; and also that the said defendants, the governor and company of the Bank of England, should be ordered to transfer the aforesaid bank stock and bank annuities, *and* into the name of the accountant general of this honorable court in trust in this cause; and also that proper directions should be given for the sale of the aforesaid East India stock and South Sea stock of the said testator, and that the money arising therefrom respectively should be invested in the purchase of three per cent. consolidated bank annuities, in the name of the said accountant general, in trust in this cause; and also that the said defendants, Messieurs Hoare, should be directed to pay the money of the said testator in their hands into court, and that the same should be laid out in like manner. And your orator further charges and submits to this honorable court, that some proper person ought to be appointed by this honorable court to receive and get in all the other outstanding estate and effects of the said testator in this country; all which actings, doings, and pretences of the said confederates are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator in the premises; in consideration whereof, and forasmuch, as your orator is re-

mediless in the premises by the strict rules of the common law, and cannot have adequate relief, except in a court of equity, where matters of this kind are properly cognisable and relievable. To the end, therefore, that the said Henry Nixon, (when he shall come within the jurisdiction of this honorable court,) the said Samuel Williams and John Sterling, the said governor and company of the Bank of England, the said East India company, the said South Sea company, and the said Messrs. Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and their confederates, when discovered, may, upon their several and respective oaths, according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, a full, true, and direct, and perfect answer make to all and singular the matters aforesaid, and that as fully as if the same were here repeated, and they particularly interrogated thereto; and more especially that the said defendants may, in manner aforesaid, answer and set forth whether the said testator, Matthias Aspden, was not formerly a merchant in Philadelphia, in North America, or at some and what other part; and whether he did not quit that country at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he did not reside in this country, or in some, and what, other country, until the time of his death, or until some, and what other period, except at the intervals hereinbefore in that behalf mentioned, or at some and what other intervals; and whether, (when he went to America at such intervals,) he did not go thither only to transact or settle his affairs in America, or for some and what other purpose; and whether the said testator did not always return to this country as to his home after such affairs were settled, or how otherwise; and whether the said testator did not, during such his residence in this country, and the place of his domicile, invest large, or some and what, sums of money in the purchase of stock and annuities in the funds of this country, and also in the funds of the East India company, and of the South Sea company, or of some and what other public company or companies, and in some and what other securities; and whether the said testator did not depart this life in the month of August, 1824, or at some and what other time; and whether he was not, at the time of his death, resident in King street, Holborn, London, or at some other place; and whether he was not domiciled in this country at the time of his death; and whether the said testator, Matthias Aspden, was not, in his lifetime, and at the time of making his will and codicils, possessed of very considerable, and particularly whether he was not possessed of considerable, and what, property in the said English and American funds, or some and which of them, and of various other and what kinds of personal estate and effects, to a very considerable, or some and what, amount in the whole; and whether the said testator did not, in his lifetime, duly make and execute his last will and testament in writing, and three codicils thereto, bearing date the 6th day of December, 1791, or some and what other date; and whether such will and codicils are not in the words and figures, or to the purport and effect, hereinbefore in that behalf mentioned, or in

some and what other words and figures, or to some and what other purport and effect; and whether the said testator did not afterwards depart this life at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he ever, and when, in any, and what manner, altered or revoked his said will and codicil, or any part thereof; and whether he did not die without any or what issue; and whether he had ever, and when, been married; and whether the said George Roberts and Abraham Liddon did not both, or one, and which of them, die in the lifetime of the said testator; and whether the president of the bank at Philadelphia aforesaid, at the time of the death of the said testator, was not the said defendant, Henry Nixon; and whether the said testator did not, by the expressions in the said third codicil to his said will, "president of the old bank," mean the president of the bank at Philadelphia aforesaid, or how otherwise; and whether the said defendant, Henry Nixon, did not soon, and when, after the death of the said testator, duly prove the said will and codicils in the proper court at Philadelphia, in America; and whether he has not also, and when, duly proved the same will and codicils in the proper ecclesiastical court in this country; and whether he has not obtained probate thereof from the prerogative court of Canterbury, and thereby become the legal personal representative of the said testator; and whether he has not possessed himself of all the personal estate and effects of the said testator, or some and what part thereof, in America and elsewhere, except in this country; and whether some are not much more than sufficient to pay and satisfy all the funeral and testamentary expenses, debts, and legacies of the said testator; and also to leave a very considerable, or some and what, surplus; and whether the said testator was not, at the time of his death, or at some other and what time, among other descriptions of property, possessed of property in the English funds; and whether such property did not consist of such stock and bank annuities, and to such amount as is hereinbefore in that behalf mentioned, or of some and what other amount; and whether the said testator was not also possessed, at the time aforesaid, or at some and what other time, of East India stock, and of South Sea stock, to a considerable, and what amount respectively; and whether such respective quantities of such respective stocks were not of such respective amount as is hereinbefore in that behalf mentioned, or of some and what other amount; and whether such respective quantities of such respective stock and annuities, or some and what part thereof, are or is not still standing in the name of the testator, or in the name of some and what other person or persons in the respective books of the said respective companies, or in the books of one, and which of them; and whether the said testator did not also die possessed of other and what personal estate, to a considerable and what amount in the whole; and particularly whether he had not money to the amount of £790 3 5 in the hands of his banker, the said Messrs. Hoare, or moneys to some other, and what amount; and whether the said testator did not leave your orator his heir-at-law; and whether the said Thomas Aspden, of Simondstone aforesaid, was not

the common ancestor of the said testator and your orator; and whether the said last named Thomas Aspden did not die at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he had not issue twelve children, or some and what other number of children; and whether the eldest of them was not the aforesaid John Aspden, or some and what other person; and whether the said John Aspden did not die and was not buried at Deptford aforesaid, or at some and what other place, at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he did not leave issue only one son, that is to say, the said Andrew Apsden, or some and what other issue; and whether the said Andrew Aspden did not die, and was not also buried, at Deptford aforesaid, at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he did not leave issue, your orator, his only child and heir-at-law, or some and what other child or children, *or some and what other child or children,* or some and what other person, his heir-at-law; and whether the name of the father of the testator was not Mathias Aspden, or some and what other name; and whether the said last named Mathias Aspden was not the third, or some and what other, son of the said Thomas Aspden, the common ancestor, or of some and what other person; and whether the said Mathias Aspden, the father, was not resident in America, and did not while he was there marry an American woman; and whether the christian name of such American woman was not Rebecca; and whether the said Mathias Aspden, the father, had not issue by her after the said marriage, an only child, namely, the said testator, or some and what other issue; and whether the said Mathias Aspden, the father, did not die in or about the year 1765, or at some and what other time, at Philadelphia, in North America, or at some and what other place; and whether he did not leave the said testator his only lawful issue, or any or what other issue him surviving; and whether, upon failure of issue of the said Mathias Aspden, the father of the said Mathias Aspden, the testator, your orator is heir-at-law of the said John Aspden, the eldest brother of the said Mathias Aspden, the father, or in some or what other way, did not become, on the death of the said testator, his heirs-at-law, or who else is the heir-at-law of the said testator; and whether your orator, as such heir-at-law of the said testator, or in some and what other character, is not entitled, under the aforesaid will of the said testator, to the residue of his personal estate and effects, after payment of his funeral and testamentary expenses, debts, and legacies; and whether such residue does not amount to a very large and what sum; and whether the said Henry Nixon has not always been, and still is, resident at Philadelphia aforesaid, or at some and what other place; and whether he has not, and when, signed and sent over to *to* the said defendants, Samuel Williams and John Sterling, or to some and what other person or persons, a general power of attorney, to collect, get in, and receive all the personal estate and effects of the said testator in this country, or to such purport, or to some and what purport, with the direction to them to remit to him, the said Henry Nixon, in America, all such personal estate and effects

of the said testator, when and as soon as they are received by them, the said defendants, Samuel Williams and John Sterling, or to such purport and effect, or to some and what other purport and effect; and whether the said defendant, Henry Nixon, does not threaten and intend to misapply such personal estate and effects in America, and instead of accounting with, and paying to, your orator the residue of the said testator's personal estate and effects, as the residuary legatee under the said will, to pay and apply the same in a manner which is in direct opposition to the said will, or how otherwise; and whether your orator has not caused notice of his said rights, under the said will, to be given to the said Samuel Williams and John Sterling, and has not requested them not to receive or remit such personal estate and effects of the said testator to the said Henry Nixon, or to such effect, or to some and what other effect; and whether the said defendants, Samuel Williams and John Sterling, do not threaten and intend, under the said power of attorney, or under some and what other authority, to sell out the said bank stock and bank annuities, and likewise the said East India stock, and also the said South Sea stock, or some, or one, and which of them, or some and what part thereof; and also to receive the money, securities, and effects of the said testator, at the said defendants, Messrs. Hoare, his bankers, and all the other personal estate and effects of the said testator in this country, or of some and what part thereof; and also what he shall receive in respect of the personal estate and effects of the said testator, to remit the said defendant Henry Nixon, or to some and what other person; and whether the said defendants, the governor and company of the Bank of England, and the said East India company, and the said South Sea company, or some, or one and which of them, do not intend, respectively, to permit the aforesaid transfer of such respective quantities of stock and annuities to be made by the said defendants, Samuel Williams and John Sterling; and whether they, or some and which of them, have not been respectively applied to by your orator, not to permit such respective transfers, or some and which of them; and whether the said defendants, Messieurs Hoare, do not likewise intend to pay over to the said Samuel Williams and John Sterling, or to some and what other persons or person, the money, securities, and effects of the said testator in their hands; and whether it is not the case, that there are certain and what persons in America, who claim to be next of kin to the said testator, as being brothers or sisters of his half-blood, or as being descended from them in that character, claim to be entitled, under the said will of the said testator, to the residue of his personal estate and effects, and that the said defendant, Henry Nixon, may set forth the names, descriptions, and places of abode of all such claimants or claimant; and whether your orator is not unable to set forth whether there are such, and if so, whether such brothers or sisters of the half-blood are living or dead, or whether they have left any children or child, or who are, or who is, their personal representatives or representative; and whether, upon the true construction of the said will of the said testator, the next of kin of the said testator are entitled, under the same, to take the residue of the personal estate and effects of the

said testator; and whether your orator is not entitled to the same under the said will as the heir-at-law of the said testator, or in some and what other character; and whether, under such circumstances, your orator was not in hopes that the said defendant, Henry Nixon, would have accounted with your orator for the residue of the personal estate of the said testator, after payment of his funeral and testamentary expenses, debts and legacies, but whether he does not refuse so to do, and why, and for what reason; and whether the said defendant, Henry Nixon, does not threaten and intend to withdraw from this country, by means of his aforesaid agents, the said defendants, Samuel Williams and John Sterling, or by some and what other means, all the personal estate and effects of the said testator in this country, or some and what part thereof, and to apply the same contrary to the said will of the said testator; and whether the said defendants, the governor and company of the Bank of England, and the said East India company, and the said South Sea company, ought not to be respectively restrained by the order of this honorable court, from permitting any transfer to be made by the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling, of the said respective stock and annuities of the said testator, standing in his name in their respective books; and whether the said defendants, Messrs. Hoare, ought not likewise to be restrained by like order from parting with the said money of the said testator in their hands, or some and what part thereof; and whether the said defendants, the governor and company of the Bank of England, should not be ordered to transfer the said bank stock and bank annuities, or some and what part thereof, respectively, into the name of the accountant general of this honorable court; and whether, also, the proper direction should not be given for the sale of the said East India stock and South Sea stock of the said testator, or some and what part thereof; and whether the money arising therefrom, respectively, or some and what part thereof, should not be invested in the purchase of three per cent. consolidated bank annuities, in the name of the said accountant general, in trust in this cause; and whether the said defendants, Messrs. Hoares, should not be directed to pay the money of the testator in their hands, or some and what part thereof, into court; and whether the same, or some and what part thereof, should not be laid out in like manner; and whether some proper person ought not to be appointed by this honorable court to receive and get in all the other outstanding estate and effects of the said testator in this country; and that the said defendant, Henry Nixon, may set forth an account of the personal estate and effects of the said testator, possessed by him, or by any person or persons, by his order, or for his use, and how and in what manner the same has been disposed of; and that an account may be taken by and under the direction of this honorable court of the personal estate and effects of the said testator, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or of any other person or persons by his order, or for his use, or got in and possessed, or secured in any way, since the decease of the said testator; and that

such personal estate and effects may be applied in payment of the said testator's funeral and testamentary expenses, and debts, and legacies, in a due course of administration; and that the residue of such personal estate and effects may be ascertained, and that your orator may be declared by this honorable court to be entitled, upon the true construction of the said will, as heir of the said testator, to such residue; and that such residue may be accordingly directed by this honorable court to be paid to your orator; and that in the mean time the said defendant, Henry Nixon, and the said defendants, Samuel Williams and John Sterling, may be restrained by the injunction of this honorable court from collecting and receiving any part of the personal estate and effects of the said testator in this country; and particularly from selling or transferring the said sums of four thousand pounds bank stock, ten thousand pounds three pounds per cent. consolidated bank annuities, twelve thousand five hundred pounds reduced three and a half per cent. bank annuities, and three thousand five hundred pounds new four per cent. bank annuities, standing in the books of the said governor and company of the Bank of England in the name of the said testator; and the said sum of three thousand pounds bank stock standing in the books of the said East India company in the name of the said testator; and the said sum of five thousand pounds stock standing in the books of the said South Sea company in the name of the said testator; and from receiving the dividends thereon respectively; and said moneys, securities, and effects now in the hands of the said defendants, Messrs. Hoare, as bankers of the said testator; and that the said defendants, the governor and company of the Bank of England; and the said defendants, the East India company; and the said defendants, the South Sea company, may be respectively restrained from permitting any transfers of such respective sums to be made; and that also the said defendants, the governor and company of the Bank of England, may be directed to transfer the said respective stock and annuities now standing in the name of the said testator in their books, and all dividends accrued thereon, respectively, into the name of the accountant general of this honorable court, in trust in this cause; and also that proper directions may be given for the sale of the said stock, respectively, standing in the name of the said testator in the respective books of the East India company and of the South Sea company; and that the moneys arising from such sale may, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the said accountant general, in trust in this cause; and that the said defendants, Messieurs. Hoare, may be restrained from paying and delivering the said money, securities, and effects of the said testator, in their hands, to the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling; and that the said defendants, Messieurs Hoare, may be ordered to pay the said money of the said testator in their hands into court; and that the said defendants, Samuel Williams and John Sterling, may be restrained by the

injunction of this honorable court from remitting any part of the personal estate and effects of the said testator in this country to the said defendant, Henry Nixon; and that some proper person may be appointed by this honorable court to receive and get in all other the outstanding personal estate and effects of the said testator; and for such further and other relief as to your lordship shall seem meet, and the nature of his case may require. May it please your lordship, the premises considered, to grant unto your orator, not only his majesty's most gracious writ of injunction, issuing out of and under the seal of this honorable court, to restrain the said Henry Nixon from receiving and withdrawing from this country any of the personal effects of the said testator; and to restrain the said Samuel Williams and John Sterling from receiving or remitting the same estate and effects, or any part thereof, to the said Henry Nixon; and particularly restraining them, respectively, from selling or transferring the bank stock, three per cent. consolidated bank annuities, reduced three and a half per cent. bank annuities, new four per cent. bank annuities, East India stock, and South Sea stock, standing in the testator's name, and from receiving the dividends thereon, respectively; and said money, securities, and effects in the hands of Messrs. Hoare, or any other, the personal estate and effects of the said testator in this country; and also to restrain the said the governor and company of the Bank of England, and the said honorable East India company, and the said honorable South Sea Company, respectively, from making, or permitting to be made, any transfer or sale of such stock and bank annuities, or any part of the same, respectively; and also to restrain the said Messieurs Hoare from paying over or parting with all or any part of the money, securities, and effects of the said testator in their hands, but also to grant unto to your orator his majesty's most gracious writ or writs of subpœna, to be directed to the said Henry Nixon, (when he shall be within the jurisdiction of this honorable court,) Samuel Williams and John Sterling, the said governor and company of the Bank of England, the said honorable company of merchants trading to the East Indies, the said honorable company of merchants trading to the South seas, the said Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and the rest of the aforesaid confederates when discovered, thereby commanding them, and every of them, on a certain day, and under a certain pain therein to be limited, personally to be and appear before your lordship in this honorable court, and then and there, upon their several and respective corporal oaths, to make a true, direct, and perfect answer to all and singular the premises; and, further, to stand to, perform, and abide such order, direction, and decree therein as to your lordship shall seem meet; and your orator will ever pray, &c. JOHN NEWLAND.

Schedule D, referred to in the annexed answer.

The following claim to be next of kin to the testator, Matthias Aspden, to wit:

I. The lineal descendants of Mary Harrison, the half-sister of the testator, on the paternal side.

Those now claiming are—

1. George Harrison.
2. Thomas H. White.
3. Elizabeth McPherson.
4. The children of Mary Bronson.
5. Mary Harrison.
6. Rebecca McMurtrie.

They allege that they are related to the testator in the following manner:

Matthias Aspden, the father of the testator, married, as his first wife, Mary Watson, daughter of Jonathan Watson, of Elwither, of Lancashire county, England, and had issue one daughter, Mary, who intermarried with Henry Harrison, of Philadelphia, by whom she had the following children:

1, Mary, who married the Right Reverend William White.

She is dead, having left three children.

1. Thomas H. White, living.
2. Elizabeth McPherson, widow of Wm. McPherson.
3. Mary Bronson, widow of Enos Bronson; she survived the testator, and died leaving the following children:
    1. Mary Harrison Bronson.
    2. Ann Emily Bronson.
    3. Elizabeth White Bronson.
    4. Hetta Atwater Bronson.
    5. William White Bronson.
2. Henry, who died in the testator's lifetime without issue.
3. Joseph, who died before the testator, without issue.
4. Ann, who married —— Paca, and died, leaving one child; which died in infancy before the testator.
5. William, } twins, who died in infancy, during the lifetime of
6. George, } the testator.
7. Matthias, who married Rebecca Francis, and died leaving two children, viz:
    1. Henry, who married Elizabeth Francis, and died before the testator, leaving one child who is still living, viz., Mary Harrison.
    2. Rebecca, who married James McMurtrie, she is living.
8. George Harrison, still living.

II. The lineal descendants of the brothers and sisters of the half-blood of the testator, on the maternal side; a part only of these have as yet claimed, viz:

1. The children of Roger Hartley, deceased.
2. Rebecca Burrough.
3. Esther Hartley.
4. Bathsheba Brick.
5. Elizabeth Brick.

6. The children of James Hartley, deceased.
7. The children of Mary Brick, deceased.
8. William Hinchman.
9. The children of James Hinchman, deceased.
10. The children of Ann Scull, deceased.
11. The children of John Hinchman, deceased.
12. Sarah Champion.
13. Anne Ellis.
14. John Zanes.
15. Isaac Zanes.
16. Samuel Zanes.
17. Mary A. Church.
18. Anne Worrell.
19. Rebecca Fowler.
20. The children of Isaac Kay, deceased.
21. The children of Matthias Kay, deceased.
22. The children of Elizabeth West, deceased.

They allege that they are related to the testator in the following manner: Rebecca, the mother of the testator, previous to her marriage with the testator's father, had been married to Roger Hartley, by whom she had several children, (hereafter named,) who were the brothers and sisters of the half-blood of the testator. The said half-brothers and sisters were—

1. Roger Hartley, he is dead, leaving children; they are said to be the following:
    1. Benjamin, said to be living.
    2. James, who died since the testator.
    3. Roger, said to be living.
    4. Thomas, dead, leaving issue.
    5. Peter, dead, leaving issue.
    6. John, said to be living.
    7. Edward.
    8. Rebecca, married to Mahloe Doane.
    9. Jeannet, dead, without issue.
    10. Martha, dead, leaving issue.
    11. Bathsheba, wife of Tho's Adams, Columbiana co., Ohio.
2. James Hartley, he is said to be dead, without issue.
3. Benjamin Hartley, he is dead, leaving issue.
    1. Ja's Hartley, who died, leaving issue; number not known.
    2. Mary Brick, who is dead, leaving children; their number not known.
    3. Rebecca Burrough, now living.
    4. Esther Hartley, said to be living.
    5. Bathsheba Brick, now living.
    6. Elizabeth Brick, now living.
4. Jannet Hartley, said to be dead, without issue.
5. Anne Hinchman, she is dead, leaving issue.
    1. William Hinchman, living.

2. James Hinchman, living at testator's death, since dead.
3. Anne Scull, she is said to be dead, leaving issue; their number not known.

4. John Hinchman, said to be dead, leaving children; number not known.

6. Bathsheba Zanes, she is dead, leaving issue.
   1. Sarah Champion, living.
   2. Anne Ellis, living.
   3. John Zanes, living.
   4. Isaac Zanes, living.
   5. Samuel Zanes, living.

7. Rebecca Kay, she is dead, leaving issue, viz:
   1. Mary A. Church, living.
   2. Anne Worrell, living.
   3. Rebecca Fowler, living.
   4. Isaac Kay, he is said to be dead, having left two children.
      1. Mary, married to —— Kay.
      2. Henrietta, also married to a person named Kay.
   5. Matthias Kay, he is said to have died, leaving several children, who reside in the western country; their names and number are not known.
   6. Elizabeth West, she is said to be dead, and to have [left] the following children:
      1. Jane, now living, and married to Jo'h P. Hornor.
      2. Mary, living, and married to Whitton Evans.
      3. Rebecca, who died unmarried.
      4. John K. West, living.
      5. Elizabeth, living, and married to Sam'l Nevins.
      6. Harriet Ann, married to Dexter Stone, died leaving issue.
      7. Thomas R. West, living.

III. Those who claim through the brothers and sister of the mother of the testator. Those who are known are—

1. Samuel Packer.

He alleges that he is related to the testator, as follows:

The maiden name of the testator's mother was Rebecca Packer; she being the daughter of Philip and Rebecca Packer; her eldest brother was Samuel Packer, deceased; his eldest son was Daniel Packer, deceased, whose eldest son is Samuel Packer, the claimant now living.

2. Those who claim through Rhody Packer, who they allege was the sister of the testator's mother. Rhody Packer married George Hammitt; both are now deceased.

They had several children, viz:

1. Joseph, who is dead, leaving children, viz:
   1. Ann, who married, and is dead, leaving a son, Joseph Lippincott.
   2. George, who is dead, leaving a daughter, Leah Prichett.
   3. Martha, who married, and is now a widow, Martha Cole.
   4. Lydia, who married, and is now a widow, Lydia Blackwood

5. Hannah, who married, and is dead, leaving a daughter, Maria Hayes.
6. John, who is living.
7. Keturah, who married, and is now a widow, Keturah Schenk.
8. Sarah, now living, the wife of S. Kirkbride.
9. Joseph, now living.

2. John, who is dead, left the following children:
   1. Thomas Hammitt,
   2. John Hammitt,
   3. Sarah Baxter,
   4. Elizabeth Newton,
   5. Anna Shinn,
   6. Hepsala Hammitt,
   7. Priscilla Brown.

   Of these, it is not certainly known how many are now living; nor whether those who are dead left children.

3. Samuel, he is dead; the only child of his who is known, is Sibilla Pritchett.
4. Elias, he is dead; leaving a daughter, Rebecca Phillips.
3. Job Packer.

He alleges that Rebecca, the mother of the testator, had a brother named Philip Packer, that he was the eldest brother, *that* the said Philip Packer, and that the said Job Packer is his son. It is also alleged that the mother of the testator had three other brothers, viz:

James, Moses, and Aaron, and two sisters; some of the descendants of James have, by counsel, claimed as such; but have not stated the number of his children, nor what has become of them.

George Packer, of Fayette county, Pennsylvania, also claims to be one of the next of kin of the testator, on the part of his mother; but has not stated the manner in which he is related.

4. John Aspden, of the city of London, who has filed his bill in the court of chancery of England. He claims as grandson and heir-at-law of John Aspden, whom he alleges to have been the eldest brother of the father of the testator.

5. John Aspden, (also of England,) who claims as the eldest son of Thomas, who he alleges was the eldest son of William, the eldest son of Thomas Aspden, the grandfather of the testator.

Petition of Joseph Lippincott and others.

Afterwards, to wit, on the sixteenth day of February, one thousand eight hundred and twenty-nine, the petition of Joseph Lippincott and others, praying to be admitted parties to the said suit, is presented by their solicitor, J. R. Ingersoll, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, third circuit, in and for the eastern district of Pennsylvania.

The petition of the subscribers, citizens of the State of New Jersey, respectfully shows, that they are, as they firmly believe, entitled to have distribution made (among them, as the parties contemplated in and

by the will of Matthias Aspden, deceased; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased; and the answer of the said Henry Nixon—the same being filed as No. 1, to April sessions, 1828; your petitioners are the children of Joseph Hammett, John H. Hammett, Samuel Hammett, and Elias Hammett, who were the sons of George and Rhody Hammett; the said Rhody, whose maiden name was Packer, having been the sister of Rebecca, the mother of the said Matthias Aspden, the testator.) Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund admitted by the executor to be in his hands; and that your honors may direct such inquiries to be made, as to their respective claims, as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain. And your petitioners will ever pray, &c.

JOSEPH LIPPINCOTT,
LEAH PRICHETT,
MARTHA COLE,
LYDIA BLACKWOOD,
MARIAH HAYS,
JOHN HAMMETT,
KETURA SCHENCK,
STACY KIRKLAND, in right of his wife Sarah,
} Children, and grand children of Joseph Hammett, deceased.

THOMAS HAMMETT,
JOHN HAMMETT,
ELIZABETH NEWTON,
HEPSABA HAMMETT,
ANNA SHINN,
PRISCILLA BROWN,
SARAH BAXTER,
} Children of John H. Hammett, dec'd.

SIBILLA PRICHETT, daughter of Samuel Hammett.

REBECCA PHILLIPS, daughter of Elias Hammett.

Petition of John and Isaac Zane.

Afterwards, to wit, on the fifteenth day of May, in the year last aforesaid, John and Isaac Zane present their petition, praying to be admitted parties to the said suit; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, third circuit, in and for the eastern district of Pennsylvania.

The petition of the subscribers, one of whom is a citizen of the State of New Jersey, and the other of the Commonwealth of Pennsylvania, respectfully shows, that they are, as they firmly believe, entitled

to have distribution made among them, as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, and the answer of the said Henry Nixon; the same being filed as No. 1, to April sessions, 1828. Your petitioners are the children of Bathsheba Zane; the said Bathsheba Zane, whose maiden name was Hartley, having been the sister of the half-blood of Matthias Aspden, the testator. Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund admitted by the executor to be in his hands; and that your honors may direct inquiries to be made as to their respective claims, as justice may require; and, finally, that the said fund may be decreed to those to whom it may, in justice and equity, appertain. And your petitioners will ever pray, &c.

JOHN ZANE,
ISAAC ZANE.

Reference to master.

Afterwards, to wit, on the eighteenth day of May, in the year aforesaid, on motion of Joseph R. Ingersoll, esq., it is ordered and decreed, that it be referred to Thomas I. Wharton, esq., as master, to examine and state, at the next session, who are all the heirs and next of kin of Matthias Aspden, deceased, the testator mentioned in the bill; that the master have power to examine such witnesses as any of the parties may desire, or he shall think necessary, returning the depositions, with his report, to this court; and that he be authorized to make publication and advertisement, in case the heirs and next of kin cannot satisfactorily be discovered otherwise; and that he report on such other matters as the parties may desire, and he may deem material.

Petition of George Harrison.

Afterwards, to wit, on the seventh day of November, in the year aforesaid, the petition of George Harrison, praying to be admitted a party defendant, is presented by his solicitor, Horace Binney, esq., which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, third circuit, in and for the eastern district of Pennsylvania.

The petition of George Harrison, a citizen of the State of Pennsylvania, respectfully shows: That he is, as he firmly believes, entitled to have distribution made to him as the party or one of the parties contemplated in and by the will of Matthias Aspden, deceased, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed as No. 1, to April sessions, 1828. Your

petitioner is, and was at the time of the testator's death, the only surviving son of Mary Harrison, formerly Mary Aspden, only child of Matthias Aspden, the father of the testator, by a former marriage, and consequently the testator's sister of the half-blood. Your petitioner prays that he may be admitted as a party to the said suit, for the purpose of claiming the fund admitted by the executor to be in his hands; and that your honors may direct inquiries to be made, as to his claim, as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain. And your petitioner will ever pray, &c.

And thereupon, to wit, on the same day, the prayer of the said petition is granted.

Interrogatories ex parte John Aspden sur commission to England.

Afterwards, to wit, on the fifteenth day of March, A. D. one thousand eight hundred and thirty, interrogatories ex parte John Aspden sur commission to England are presented by his solicitor, James M. Broom, esquire; which interrogatories, being read and filed, are in the words and of the tenor following, to wit:

In the circuit court of the United States of America, district of Pennsylvania.

SAMUEL PACKER, complainant,
vs.
HENRY NIXON, executor of the will of Matthias Aspden, defendant.

Interrogatories to be administered to witnesses, to be produced, sworn, or affirmed, and examined, on the part of John Aspden, of Rawtenstall, in the county of Lancaster, in England, a claimant in the above cause:

First. Do you know the parties, complainant and defendant, in the title of these interrogatories named, or either and which of them; and how long have you known them respectively?

Second. Do you know the said John Aspden; if yea, how long have you known him, and where has he hitherto resided, and where does he now reside?

Third. Do you know, or have you been credibly informed, and by whom, who was the father, and grandfather, and great grandfather of the said John? If yea, name the same, respectively; and whether or not the said John was the eldest son of his father, and whether or not the said John's father and grandfather were or were not the eldest sons, respectively, of their respective fathers. Declare your whole knowledge herein, whether from general reputation or otherwise; specifying the source of such knowledge.

Fourth. Have you any further knowledge, by general reputation or

otherwise, and state how, of the pedigree of the said John Aspden, and of Matthias, son of Matthias Aspden, who lately died in London, or of either? If yea, state the same, fully and at large.

Fifth. Have you ever received, or do you know of, any letter or letters from the said Matthias Aspden, making inquiries concerning his family in Lancaster county, in England? If yea, please to annex the same, and say whether the same are in his handwriting.

Sixth. Look upon the paper writings, now produced and shown to you, (and which the commissioners will please to identify with their marks and signatures,) and say whether you did compare and examine the same with the register of any, and what, parish and place, book or books, entry or entries, or not; if yea, does the same contain a true copy of such register, book or books, entry or entries, with which you so examined them or not? Declare.

Seventh. Had you any correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid? If yea, please to annex copies of your letters, stating how they were respectively sent, and the letter or letters from said Matthias to you.

Lastly. Do you know of any other matter or thing which may be of importance to the said John Aspden in this suit? If yea, relate the same fully and at large, as if you had been thereunto particularly interrogated.

JAMES M. BROOM,
For John Aspden.

Commissioners named in behalf of John Aspden.

Henry Hargreaves, of Blackburn, in the county of Lancaster, now or late solicitor, and master extra in chancery; and

William Gray, of Haslingdon, in the county of Lancaster, now or late one of his majesty's justices of the peace for said county, esquires, or either of them.

Order on petition of Joseph Lippincott and others.

Afterwards, to wit, on the twenty-first day of April, in the year last aforesaid, on motion of Mr. Rawle, it is ordered and decreed that the petition of Joseph Lippincott and others be granted, and that the complainant be at liberty to amend the bill, by adding the said Joseph Lippincott and others as complainants; and also by adding the name of George Harrison as defendant; and that the petition of John Zane and Isaac Zane be dismissed.

Petition of John and Isaac Zane.

Afterwards, to wit, on the fifth day of June, in the year aforesaid, John and Isaac Zane aforesaid present a petition by their solicitor, John L. Newbold, esquire, praying to be admitted as parties to the said suit; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, third circuit, in and for the eastern district of Pennsylvania.

The petition of John Zane, a citizen of the Commonwealth of Pennsylvania, and of Isaac Zane, a citizen of the State of New Jersey, respectfully shows, that they are, as they firmly believe, entitled to have distribution made among them as the parties contemplated in and by the last will and testament of Matthias Aspden, deceased, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, and the answer of the said Henry Nixon, the same being filed as No. 1, to April session, 1828.

Your petitioners are the children of Bathsheba Zane; the said Bathsheba Zane, whose maiden name was Hartley, having been the sister of the half-blood of Matthias Aspden, the testator. Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund admitted by the executor to be in his hands, and that your honors may direct inquiries to be made, as to their respective claims, as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain; and your petitioners will ever pray, &c.

Whereupon, on the same day, on motion of Mr. Newbold, and by consent of Mr. Rawle, solicitor for complainant, it is ordered, that the petitioner, John Zane, be entered on the docket and proceedings as one of the defendants; and that Isaac Zane, the other petitioner, be so entered, as one of the complainants.

Petition of Elizabeth McPherson and others.

Afterwards, to wit, on the eleventh day of October, in the year aforesaid, the petition of Elizabeth McPherson, of the city of Philadelphia, widow, and others, is presented by their solicitor, Charles Chauncey, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Elizabeth McPherson, of the city of Philadelphia, widow; Thomas H. White, of the same city, merchant; and Ann Emily Bronson, Elizabeth White Bronson, Hetta Atwater Bronson, and William White Bronson, minor children of Mary Bronson, deceased, by Thomas H. White, their lawful guardian, all of whom are citizens of the State of Pennsylvania, respectfully showeth:

That your petitioners are, as they firmly believe, entitled to have distribution made to them as parties contemplated in and by the will of Matthias Aspden, deceased, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same being

filed as No. 1, to April sessions, 1828. Your petitioners, Elizabeth McPherson and Thomas H. White, are, and were at the time of the testator's death, the sole surviving daughter and son of Mary White; and your petitioners, Ann Emily Bronson, Elizabeth White Bronson, Hetta Atwater Bronson, and William White Bronson, were, with Mary Bronson, their sister, since deceased, unmarried and intestate, the sole surviving children of Mary Bronson, a deceased daughter of the said Mary White, who was a daughter of Mary Harrison, formerly Mary Aspden, only child of Matthias Aspden, the father of the testator by a former marriage, and consequently the testator's sister of the half-blood. Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund admitted by the executor to be in his hands, and that your honors will direct such inquiries to be made as to their claim as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain; and your petitioners will ever pray, &c.

Petition of Job Packer.

Afterwards, to wit, on the twenty-third day of October, in the year aforesaid, the petition of Job Packer, praying to be admitted as a party defendant, is presented by his solicitor, John Bouvier, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the circuit court of the United States for the eastern district.

The petition of Job Packer, a citizen of Pennsylvania, respectfully represents, that he claims, and believes himself to be entitled, to be the heir-at-law of Matthias Aspden, deceased, and as such is interested in the case of Samuel Packer against Henry Nixon, executor of the last will and testament of the said Matthias Aspden, now pending in the said court, and therefore prays to be made a defendant in the said case.

JOB PACKER.

And thereupon, to wit, on the same day, the prayer of the said petition is granted.

Cross interrogatories sur commission to England.

Afterwards, to wit, on the first day of November, in the year aforesaid, cross interrogatories sur commission on behalf of John Aspden are presented, on behalf of the adverse party, by their solicitor, Horace Binney, esquire; which, being read and filed, are in the words and of the tenor following, to wit:

PACKER
vs.
NIXON, executor of Aspden } In the circuit court, U. S., Pennsylvania district.

Cross interrogatories to be administered to the witnesses who may be examined upon interrogatories on the part of John Aspden, of Rawtonstall, in the county of Lancaster, in England, a claimant in the above cause.

Interrogatory 1. If you answer affirmatively to the claimant's second interrogatory, state how the said Aspden spells his surname; how long he has spelt it so; how his father and grandfather respectively spelt it.

Interrogatory 2. If you answer affirmatively to the claimant's third interrogatory, state when you first acquired your knowledge, where, and from whom.

Interrogatory 3. If you answer affirmatively to the claimant's fifth interrogatory, state where you received the letter or letters to which you depose, from whom you received it or them, and at what time or times. State whether you know of any reply being sent to the said letter or letters, when, and by whom.

Interrogatory 4. If you answer affirmatively to the claimant's seventh interrogatory, state whether you have any letters from Mathias Aspden, acknowledging the receipt of any letter from you, of which you may have exhibited a copy or copies. If you have such letter or letters, annex them.

Interrogatory 5. Have you advised with any person concerning the answer or answers that you were to give under this commission; if aye, with whom particularly; have you named all such person or persons; have you been previously examined under oath, or otherwise, upon the subject of the claimant's interrogatories? If aye, state when, where, and by whom; have you any promise or agreement from or with the claimant, John Aspden, or any one else, in regard to compensation or participation in what he may recover in this cause; do you know of any such promise or agreement by the said John, or any one in his behalf, with any other person or persons? If aye, state.

Interrogatory 6. What is your profession or calling; what your age; where were you born; what is your place of residence; how long have you lived there; in what part of the said place is your habitation, naming street, number, or other particular designation of the house in which you dwell; where did you last dwell before you came to your present residence; what is your affinity or relationship to the said John Aspden?

HOR. BINNEY,
In behalf of G. Harmon, &c.

Commissioners on behalf of the parties claiming adversely to John Aspden, in the above interrogatories mentioned.

The mayor, chief burgess, or other chief officer of Rawtonstall, in the county of Lancaster, or any master extraordinary in chancery, other than the commissioner on the adverse part.

Petition of Mary Harrison.

Afterwards, to wit, on the eleventh day of February, one thousand eight hundred and thirty-one, the petition of Mary Harrison, infant, by her guardian, Elizabeth Harrison, praying to be made a party defendant, is presented by her solicitor, Horace Binney, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, third circuit, in and for the eastern district of Pennsylvania.

The petition of Mary Harrison, a citizen of the State of Pennsylvania, infant, by her mother and testamentary guardian, Elizabeth Harrison, widow, also a citizen of the said State, respectfully showeth, that she is entitled to have distribution made to her as the party, or one of the parties, contemplated in and by the will of Matthias Aspden, deceased; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same filed as No. 1, to April session, 1828. Your petitioner is, and was at the time of the testator's death, the only child of Henry Harrison, then deceased, who was one of the two children, and the only son of Matthias Harrison, then also deceased, who was one of the sons of Mary Harrison, formerly Mary Aspden, the only child of Matthias Aspden, the father of the testator by a former marriage, and consequently the testator's sister of the half-blood. Your petitioner prays that she may be admitted as a party to the said suit, for the purpose of claiming the fund admitted by the executor to be in his hands, and that your honors will be pleased to direct such inquiries to be made, as to her claim, as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain; and your petitioner will ever pray, &c.

MARY HARRISON.

By her testamentary guardian,

ELIZABETH HARRISON.

And thereupon, to wit, on the same day, the prayer of the said petition is granted.

Petition of William F. Packer.

Afterwards, to wit, on the seventh day of March, in the year aforesaid, the petition of William F. Packer, praying to be admitted a party to the said suit, is presented by his solicitor, John Bouvier, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, for the third circuit, in and for the eastern district of Pennsylvania.

The petition of William F. Packer, a citizen of the State of Pennsylvania, respectfully showeth, that he is entitled to have distribution

made to him as party, or one of the parties, contemplated by the will of Matthias Aspden, deceased, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon, the same filed as No. 1, of April sessions, 1828. Your petitioner is the assignee of Job Packer, and claims by virtue of the said Job's assignment to him. Your petitioner, therefore, prays that he may be admitted as a party to the said suit for the purpose of claiming the fund admitted by the said executor to be in his hands, and that your honors will be pleased to direct such inquiries to be made, as to his claim, as justice may require; and, finally, that the said fund may be directed to those to whom it may in justice and equity appertain; and your petitioner will ever pray, &c.

WILLIAM F. PACKER.

And thereupon, to wit, on the same day, the prayer of the said petition is granted.

Order to enlarge time for receiving evidence.

Afterwards, to wit, on the fifth day of September, in the year aforesaid, the court enlarge the time for the master to receive evidence until the first Monday in October next.

Certificate of master on deposition of Job Packer.

Afterwards, to wit, on the fifteenth day of October, in the year aforesaid, the master's certificate on deposition of Job Packer is presented, in the words following, to wit:

Circuit court, April session, 1828.

PACKER vs. NIXON. } In equity.

At the hearing of this case before me on this day, the 11th of October, 1831, the counsel for William F. Packer, one of the parties to this cause, offered in evidence the deposition of Job Packer, taken under a commission to Lycoming county. The deposition was objected to by the counsel for the complainant, on the ground that Job Packer was an interested witness, averring himself to be the heir-at-law of the intestate, Matthias Aspden, and being also a party on the record. The counsel for William F. Packer then produced an assignment by the said Job Packer of all his right, title, and interest in the said estate to the said William F. Packer, which assignment was proved before me by a witness to have been duly executed. After hearing the counsel on each side, I was of opinion that the witness was competent, and have accordingly admitted his deposition.

All which is respectfully submitted.

T. I. WHARTON, *Master*.

Philadelphia, October 11, 1831.

Exceptions to master's report.

Afterwards, to wit, on the fifteenth day of October, in the year aforesaid, sur report by the master upon the commission to England, issued on behalf of John Aspden, that he had suppressed the depositions taken under the said commission. Motion by Mr. Sergeant and Mr. Broom, on behalf of the said John Aspden, that the said order of the master be reversed, and that he be directed to receive the said depositions in evidence, and that the same be considered in evidence.

Exceptions sustained.

Whereupon, afterwards, to wit, on the twenty-fourth day of October, in the year aforesaid, the exceptions to the master's report are sustained, and the master is directed to report the depositions, taken under the commission to England, to the court.

Petition of Samuel Champion and others.

Afterwards, to wit, on the same day, the petition of Samuel Champion and others, praying to be admitted as parties to the said suit, is presented by their solicitor, Henry Chester, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States for the district of Pennsylvania.

The petition of Samuel Champion and Sarah, his wife, and Ann Ellis, of Haddonfield, New Jersey, respectfully showeth, that your petitioners, as they firmly believe, entitled to have distribution made to them as parties contemplated in and by the will of Matthias Aspden, deceased, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, the same being filed as No. 1, to April sessions, 1828. Your petitioners, Sarah Champion and Ann Ellis, are, and were at the time of the testator's death, two of the surviving children of Bathsheba Zanes, formerly Bathsheba Hartley, one of the daughters of Rebecca Hartley, the mother of the testator by a former marriage, and consequently testator's sister of the half-blood. Your petitioners therefore pray that they may be admitted to the said suit for the purpose of claiming the fund admitted by the executor to be in his hands; that your honors will direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain; and your petitioners will ever pray, &c.

And thereupon, to wit, on the same day, the prayer of the said petition is granted.

Petition of Rebecca Burrough and others.

Afterwards, to wit, on the same day, the petition of Rebecca Bur-

rough and others, praying to be admitted as parties to this suit, is presented by their solicitor, Henry Chester, esquire, aforesaid; which petition being read and filed, is in the words, and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Rebecca Burrough, Ashur Hartley, Bathsheba Brick, Samuel Brick and Elizabeth, his wife, John Brick, Thomas Hartley, Edmund Brown, Mary Brown, Elisha Brown, Benjamin Brown, Thomas Brown, Chalkley Brown, and Israel Brown, all of whom are citizens of the State of New Jersey, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as parties contemplated in and by the will of Mathias Aspden, deceased, which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Mathias Aspden, deceased, and the answer of the said Henry Nixon, the same being filed No. 1, to April sessions, 1828. Your petitioners, Rebecca Burrough, formerly Rebecca Hartley, Ashur Hartley, Bathsheba Brick, formerly Bathsheba Hartley, Elizabeth Brick, formerly Elizabeth Hartley, are, and were at the time of the testator's death, children of Benjamin Hartley, who was a son of Rebecca Aspden, the mother of the testator, by a former marriage, and consequently testator's brother of the half-blood. Your petitioner, John Brick, is, and was at the time of the testator's death, the sole surviving son of Mary Brick, formerly Mary Hartley, a daughter of Benjamin Hartley, who was the son of Rebecca Aspden, the mother of the testator by a former marriage, and consequently the testator's brother of the half-blood. Your petitioner, Thomas Hartley, is, and was at the time of the testator's death, the sole surviving son of James Hartley, who was one of the sons of Benjamin Hartley, the testator's brother of the half-blood. And your petitioners, Edmund, Mary, Elisha, Benjamin, Thomas, Chalkley, and Israel Brown, are, and were at the time of the testator's death, the sole surviving children of Mary Brown, formerly Mary Hartley, who was one of the daughters of Benjamin Hartley, who was one of the sons of Rebecca Aspden, the mother of the testator, and consequently the testator's brother of the half-blood. Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund admitted by the executor to be in his hands; that your honors will direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to those to whom it may in justice and equity appertain; and your petitioners will ever pray, &c.

And thereupon, to wit, on the same day, the prayer of the said petition is granted.

Petition of John Aspden.

Afterwards, to wit, on the twenty-sixth day of November, in the

year aforesaid, the petition of John Aspden, praying to be admitted a party to this suit, is presented by his solicitors, John Sergeant and James M. Broom, esquires; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, third circuit, in and for the eastern district of Pennsylvania.

The petition of John Aspden, a subject of the King of the United Kingdom of Great Britain and Ireland, respectfully shows: That he firmly believes he is entitled, as heir-at-law, and residuary devisee to the residue of the estate devised in and by the will of Matthias Aspden, deceased; of which said will the said Henry Nixon appears in this court as the executor, in a bill filed against on the equity side thereof, by Samuel Packer, No. 1, to April sessions, 1828. That he hath already appeared before the master appointed by your honors, and exhibited evidence in support of the said claim, pursuant to public notice by the said master given; all which may appear by the report of the said master, to be made to this honorable court.

Your petitioner, therefore, prays your honors that he may be admitted on record as a party to the said suit, for the purpose of claiming the funds, which now are, or may hereafter be, in the hands of the said executor applicable to his said claim; and that your honors may examine his said claim in such manner as equity and justice may require; and finally, that the said funds, so claimed by your petitioner, may be decreed to him, as in justice and equity it appertains, as he verily believes.

And your petitioner will every pray, &c.

JOHN ASPDEN.

And thereupon, to wit, on the same day, the prayer of the said petition is granted.

Report of the master and evidence accompanying it.

Afterwards, to wit, on the twelfth day of December, in the year aforesaid, the master presents his report; with the evidence taken before him, and the evidence taken under the commissions to England, and to Williamsport, Pennsylvania; which report and evidence is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States for the eastern district of Pennsylvania:

I respectfully report—

That in pursuance of the order of the court, made on the eighteenth day of May, 1829, in the above cause, by which I was directed to examine and state, at the next session of the court, who are all the heirs and next of kin of Matthias Aspden, deceased, the testator, mentioned in the bill. I have been attended by the counsel of the parties complainant and respondent; by the counsel of John Aspden; by the counsel of George Harrison and of the heirs of Matthias Harrison; by the counsel

of the heirs of Mrs. Mary White; by the counsel of John Zane and Isaac Zane; by the counsel of Joseph Lippincott, Leah Pritchett, Martha Cole, Lydia Blackwood, Maria Hays, John Hammett, Keturah Schenck, Stacy Kirkbride, in right of his wife Sarah, (children and grandchildren of Joseph Hammett, deceased;) Thomas Hammett, John Hammett, Elizabeth Newton, Hepsiba Hammett, Ann Shinn, Priscilla Brown, Sarah Baxter, (children of John H. Hammett, deceased;) Sibilla Prickett, (daughter of Samuel Hammett;) Rebecca Phillips, (daughter of Elias Hammett;) Rhoda Bortan, Jonas Cattel, Bartholomew Carter, Mary Jennings, Mark Heritage, Sarah Parker, Ann McKean, Isaac Pedrick, sen'r, Amos Cattel, Uriah Cattel, James Reynolds, Jacob Sickler, Edward Duffel, John Duffel, Daniel J. Packer, Hugh Cox, Elizabeth Nachbor, John Packer, Asa Vansciver, Daniel Carter, John Boqua, John Turner, Elizabeth Turner, Joseph Turner, Nathan Carter, John S. Carter, and Daniel S. Carter; by the counsel of Job Packer and William F. Packer; by the counsel of Rebecca Borrough, Asher Hartley, Barsheba Brick, Elizabeth and Samuel Brick, John Brick, Thomas Brick, Edmund, Mary, Elijah, Benjamin, Thomas Chalkley, and Israel Brown, Sarah Champion, and Ann Ellis; by the counsel of ——— Adams; by the counsel of the heirs of William Henchman, (excepting Joseph Henchman,) and of the children of —— Zane, (excepting John and Isaac;) by the counsel of Mary Church and of Jane Horner, Mary Evans, John K. West, Eliza Nevins, and of the children of Thomas West and Harriet Stone; by the counsel of Joseph Worrel and Ann, his wife; by the counsel of E. Bortan, and R. Bortan; by the counsel of Mary Derrickson and of Edward E. Packer; and by the counsel of Thomas Adams and Barsheba, his wife, and of Edward Hartley; all which persons claim to be heirs or of kin to the testator; and I have heard their respective proofs and allegations.

That in pursuance of the said order of the court, by which I was authorized to make publication and advertisement, in case the heirs and next of kin could not satisfactorily be discovered otherwise, on the fifteenth day of July, 1829, I caused the following advertisement to be published in the American Daily Advertiser, and in the American Sentinel, two daily newspapers printed in the city of Philadelphia, and the publication to be continued therein twice a week until the day of hearing, viz:

"*Estate of Matthias Aspden, deceased.*

"Whereas, by a decree of the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, bearing date the eighteenth day of May, 1829, made in a certain cause in equity there depending, wherein Samuel Packer is complainant, and Henry Nixon, executor of the will of Matthias Aspden, deceased, is defendant, it is, amongst other things, referred to Thomas I. Wharton, esq., as master, to examine and report who are all the heirs and next of kin of Matthias Aspden, deceased, the testator, mentioned in the said bill; notice is hereby given to all persons claiming to be such heirs or next of

kin, that the depositions of witnesses will be taken at the office of the said master, No. 106, Walnut street, in the city of Philadelphia, on Thursday, the sixth of August next, at ten o'clock in the morning of that day; at which time and place they may attend, if they think proper.

T. I. WHARTON."

And on the eleventh of February, 1830, I caused additional publication to be made, in the same newspapers, twice a week, until the adjourned day of hearing, as follows:

"*Estate of Matthias Aspden, deceased.*

"Whereas, by a decree of the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, bearing date the eighteenth day of May, 1829, made in a certain cause in equity therein depending, wherein Samuel Packer is complainant, and Henry Nixon, executor of the will of Matthias Aspden, deceased, is defendant, it is, amongst other things, referred to Thomas I. Wharton, esquire, as master, to examine and report who are all the heirs and next of kin of Matthias Aspden, deceased, the testator mentioned in the said bill; notice is hereby given to all persons claiming to be such heirs or next of kin, that the depositions of witnesses will be taken at the circuit court-room, in the hall of the Franklin Institute, in the city of Philadelphia, on Monday, the first day of March next, at ten o'clock in the forenoon of that day; at which time and place they may attend, if they think proper.

T. I. WHARTON."

That, in pursuance of the order of the court made on the fifth of November, 1829, by which it was ordered that commissions to take depositions be issued, directed to such persons as I should appoint, commissions were issued to the county of Lancaster, in the kingdom of England, and to Lycoming county, in the State of Pennsylvania, directed to persons appointed by me; and such commissions having been returned, I have, in compliance with the said order, included the evidence contained therein in this report.

That, in pursuance of the order of the court made on the nineteenth day of May last, (1831,) by which I was directed to give public notice, by advertisement, published twice a week for one month, in one daily newspaper of the city of Philadelphia, I caused the following advertisement to be published on the fifteenth of June, 1831, in the American Daily Advertiser, a daily newspaper of the city of Philadelphia, and to be continued therein twice a week for one month.

"*In the case of Matthias Aspden's succession.*

"Notice, by order of the court, is hereby given, that the master is directed to report at the October sessions, 1831, of the circuit court of

the United States, in and for the district of Pennsylvania, in the third circuit, who are all the next of kin of Matthias Aspden, deceased, entitled to distributive parts of his estate; and that all claimants must, therefore, submit their claims and proofs to the master, at his office, No. 106, Walnut street, in the city of Philadelphia, on or before Wednesday, the tenth day of August next.

T. I. WHARTON."

And having heard the counsel of the several parties claiming to be heirs or of kin to the said Matthias Aspden, and having examined and considered the evidence adduced by them respectively, I do find:

That Matthias Aspden, the testator, died on or about the ninth day of August, 1824, in the city of London and kingdom of Great Britain, having first made his will or testament in writing, with certain codicils thereto, as set forth in the bill and answer, leaving neither widow nor children, father nor mother, brothers nor sisters of the whole or half-blood, but leaving descendants of brothers and sisters of the half-blood, and descendants of his paternal grandfather, and also of his maternal grandfather.

That the said Matthias Aspden was born in or about the year 1756, in the city of Philadelphia, and was the only issue of the marriage of his father, Matthias Aspden, with Rebecca, the widow of Roger Hartley, and daughter of Philip and Rebecca Packer.

That his father, Matthias Aspden the elder, was twice married, first to Mary Watson, of Clivitcher, in the kingdom of England, by whom he had issue only one child, Mary, who afterwards married Captain Henry Harrison, and left issue three children, viz., George Harrison, Matthias Harrison, and Mary, who afterwards married the Rt. Revd. Bishop White.

That the grandfather of the testator, on the paternal side, was Thomas Aspden, of Simonstone, in the county of Lancaster, in the kingdom of England, who, besides the said Matthias, had issue one other son, named William.

That the said William Aspden, the paternal uncle of the testator, had issue six children, and that his first or eldest son was Thomas Aspden, whose first or eldest son was John Aspden, now living in the forest of Rosendale, near Great Harwood, in the county of Lancaster and kingdom of Great Britain.

That Rebecca, the mother of the testator, Matthias Aspden, previously to her marriage with Matthias Aspden, the elder, had married Roger Hartley, of Bucks county, in the State of Pennsylvania, by whom she left issue five children, viz., 1 Roger; 2 Barsheba, wife of Nathan Zane; 3 Ann, wife of William Hinchman; 4 Benjamin; 5 Rebecca, wife of John Kay.

That Philip Packer, the maternal grandfather of the testator, appears to have been twice married. By his first marriage, the evidence of which is not very positive or distinct, he had issue several children, whose names and history have not been explicitly stated in the testi-

mony of the witnesses; and, it is believed, are not material to this inquiry. By his second marriage with Rebecca Jones he had issue, besides the said Rebecca Hartley, the mother of the testator, three children: 1 Samuel Jones Packer; 2 Rhoda, who married George Hammitt; 3 Sarah, who married John Carter; whose descendants will be hereinafter stated.

Being directed, by the order of the court, to state "who are all the heirs and next of kin of the said Matthias Aspden," the counsel of the several claimants have requested me to report the conclusions which I have adopted, according to the following classification:

1. Who is the heir-at-law, on the paternal side, according to the common law?

2. Who is the heir-at-law, on the maternal side, according to the common law?

3. Who are the heirs or next of kin, according to the acts of assembly of this commonwealth, and their respective degrees of consanguinity?

4. Who are all the heirs or kindred of the said Matthias Aspden, and the relation in which they stand to him?

I accordingly report—

1. That John Aspden, of Rossendale, or Rawtonstall, in the county of Lancaster, in the kingdom of Great Britain, is the heir at common law, on the paternal side, of the said Matthias Aspden, the testator.

2. That Samuel Packer, of the State of New Jersey, the complainant in this cause, is the heir at common law, on the maternal side, of the said Matthias Aspden, the testator.

3 and 4. That the tables annexed hereto contain the names of all the heirs or kindred of the testator, according to the evidence laid before me, distinguishing their respective degrees of consanguinity, viz:

Table No. 1 contains the names and relationship of all the persons who are descended from the brothers and sisters of the testator of the half-blood.

Table No. 2 contains the names and relationship of all the persons who are descended from the maternal grandfather of the testator.

Table No. 3 contains the names and relationship of all the persons who are descended from the paternal grandfather of the testator.

It is proper for me to add that, in consequence of the remote residence of some of the kindred of the testator, the evidence relating to their names and present existence is not altogether satisfactory, but the facts relative to the several stocks and principal subdivisions of the family are established by the concurrent testimony of several intelligent witnesses.

And, having been so requested by the counsel of the complainant, I report further, that on the 10th day of May, 1768, Rebecca Aspden, of the city of Philadelphia, widow, and Daniel Packer, of Woolwich township, in the county of Gloucester, and province of New Jersey, by deed pole, reciting that the said Rebecca and Daniel were the only surviving children of Rebecca Packer, who was the only surviving daughter and issue of Daniel Jones, one of the first adventurers and

purchasers in the province of Pennsylvania, who was, in his lifetime, seized and possessed of or entitled to several city and liberty lots, and other tenements and tracts of land in the said province; and being so seized, &c., died intestate, and his estate in the premises descended to the said Rebecca Packer, and from her to the said Rebecca Aspden and Daniel Packer; in consideration of the natural love and affection which they respectively bore unto Matthias Aspden and James Hartley, both of the city of Philadelphia, merchants, the sons of the said Rebecca Aspden, and nephews of the said Daniel Packer, conveyed to them, the said Matthias Aspden and James Hartley, in fee, all their purports and shares in "all and singular the messuages, lands, tenements and hereditaments, located or unlocated, in the said province of Pennsylvania, which were of the said Daniel Jones, and not by him disposed of in his lifetime, descended to his daughter, Rebecca Packer, and by her not disposed of, descended to the said Rebecca Aspden and Daniel Packer."

I report, also, that Matthias Aspden, father of the testator, by his last will and testament, dated the tenth day of August, 1764, devised to the said Matthias, the testator, in fee, certain real estate in the provinces of New Jersey and Pennsylvania.

And, having been so requested by the counsel of John Aspden, I annex to this, my report, a certified copy of the said will of Matthias Aspden, the father of the testator.

And, in conformity with the order of the court, I return with this, my report, the depositions, taken by me, of Bishop White, Barsheba Thompson, Eleanor Earick, Rhoda Borton, Abigail Lippincott, Rachel Hammitt, John Gill, Rebecca Fowler, Catharine Dilks, John Paxton, Ann Marter, Phœbe Gibbs, Thomas Aspden, John Lane, John Keen, William Hinchman, James H. Maxwell, Edmund Ingham, John Constantine, Philip Carlan, Prudence Berryman, Joshua Middleton, Jacob Wolohan, Samuel W. Clement, Rhoda Powell, Elizabeth Hinchman, James Edgar, and Hannah Sophia Packer. And I also return the depositions of Richard Chippendale, John Wolstanholme, John Clayton, William Bentley, Richard Wolstanholme, Henry Baron, and Thomas Hardman, taken under the commission to England; and the deposition of Job Packer, taken under the commission to Lycoming county, in the State of Pennsylvania.

All which is respectfully submitted.

T. I. WHARTON, *Master*.

Philadelphia, November 30th, 1831.

Will of Matthias Aspden, senior.

Be it remembered that I, Matthias Aspden, of the city of Philadelphia, in the province of Pennsylvania, merchant, being advanced in years, and of sound and well-disposing mind and memory, thanks be to God for the same, and all other his mercies, do make my last will and testament in manner following, to say:

First. It is my will that all my just debts and funeral expenses be duly paid. And I do give unto my wife, Rebecca Aspden, the yearly sum of fifty pounds, current money of Pennsylvania, to be paid her during all the term of her natural life, in two days of payment in the year: the first half year's payment to be made her that day come six months next after the day of my decease. And I do give her, my said wife Rebecca, and her assigns, during her natural life, the new building at the east end of my large brick house in Haddonfield, in the western division of the province of New Jersey. And I do give and devise unto my son, Matthias Aspden, his heirs and assigns, forever, all my messuages, tenements, lands, hereditaments, and estate in Haddonfield aforesaid (the term before given my wife during her life in the new building only excepted.) And I do also give and devise unto my said son, Matthias Aspden, his heirs and assigns, forever, all my messuage or tenement and ground on the east side of Delaware street, in the said city, wherein James Wallis now dwells, which extends from the said street to the utmost extent into the river Delaware, with the stores and wharf thereunto belonging. And also all my plantation and tract of land in the county of Chester, in the province of Pennsylvania, with the rights and appurtenances, to hold to him, my said son, Matthias Aspden, his heirs and assigns, for ever. To the payment of which fifty pounds per year to my said wife during her natural life, I do charge my said son Matthias' lands and tenements. And I do give and devise unto Henry Harrison, of the said city, esquire, and Mary, his wife, (my daughter,) all that my messuage or tenement and lot of ground thereunto belonging, situate on the north side of High street, in the said city, with the appurtenances, to hold to them, their heirs and assigns, for ever. And I do give and bequeath unto my niece, Mary Aspden, the sum of five hundred pounds, and one bed and furniture for one room and a kitchen. And I do give unto my nephew, Thomas Aspden, the sum of two hundred pounds. And I do give and bequeath unto my three nieces, Elizabeth, Margery, and Ann Aspden, the three daughters of my late brother, William Aspden, deceased, the sum of thirty pounds unto each of them. And the aforesaid legacies are to be of current money of Pennsylvania.

And I do give, devise, and bequeath unto my said son, Matthias Aspden, all the rest, residue, and remainder of my money, goods, chattels, rights, credits, lands, tenements, and estate, real and personal, not before given or mentioned, to hold to him, my said son Matthias, his heirs, executors, administrators, and assigns, forever. But if my said son, Matthias Aspden, shall happen to die under age, and without issue, then, and in that case, and in no other, I do hereby desire and authorize my executors, and the survivors of them, to grant, bargain, and sell all the aforesaid houses, lands, tenements, hereditaments, and real estate, hereby given or intended for my said son Matthias, unto such person or persons as shall purchase the same at public sale, and to execute and acknowledge a good and sufficient deed or deeds to the purchaser or purchasers thereof, his, her, and their heirs and assigns forever. And the money

arising by the aforesaid sales, and all other the money and personal estate hereby given or intended for my said son Matthias, I would have divided into two equal parts, and one full equal part thereof I do give and bequeath unto the children of the said Henry Harrison and Mary, his wife, namely, Joseph, Matthias, George, Mary, and Ann, in equal shares. And if any of them depart this life before they receive their part, the part of such decedent or decedents to be for and go to the survivors or survivor of them equally; and the other one full equal half part or residue thereof I do give and bequeath unto the children of my said deceased brother, William Aspden, namely, Thomas, Nathaniel, Elizabeth, Mary, Margery, and Ann, in equal shares. And if any of them depart this life before they receive their part of such decedent or decedents, to be for and go to the survivors or survivor of them equally; (my niece Mary now dwells in Philadelphia, and the rest of my late brother William's children dwell in Great Harrwood, in Lancashire, in old England.) And I do hereby nominate and appoint my much esteemed friends, Joseph Saunders, Peter Reeve, Abraham Leddens, all of the said city of Philadelphia, merchants, together with my said son, Matthias Aspden, and my said niece, Mary Aspden, to be the executors and executrix of this my last will and testament. And it is my will and mind that my said executors, and the survivors or survivor of them, in case of the decease of my said son Matthias, under age and without issue as aforesaid, shall either sell the real estate, or some part thereof, subject to the aforesaid fifty pounds per year, payable to my said wife as aforesaid; or deduct as much money, arising by the said sale, as will yield the aforesaid yearly sum of fifty pounds, being put to interest, which I desire and authorize to be put to interest, on good security, by my said executors and executrix, and the survivors of them, during the natural life of my said wife, for her use and benefit. And upon her decease the same to be divided between the children of the said Henry Harrison and Mary, his wife, before mentioned, and the children of my late brother, William Aspden, before named, in such parts and manner as before mentioned and directed. And it is my will that what I have given or intended for my said wife, Rebecca Aspden, shall be in full lieu of her dower or thirds of my estate.

In witness whereof I, the said Matthias Aspden, the testator, have hereunto set my hand and seal, the tenth day of August, in the year of our Lord one thousand seven hundred and sixty-four.

MATTHIAS ASPDEN.

Signed, sealed, published, and declared by the above named Matthias Aspden, the testator, for and as his last will and testament, in the presence of us, who, in his presence, and at his request, have set our names as witnesses of the same, the word ("issue,") being first interlined.

ABRAHAM KITE,
PAUL ISAAC VOTO,
JOSEPH STILES.

Philadelphia, August 26th, 1765. Then personally appeared Joseph Stiles, Abraham Kite, and Paul Isaac Voto, the three witnesses to the foregoing will; and the said Paul Isaac Voto on oath, and the said Joseph Stiles and Abraham Kite on their solemn affirmation, according to law, did declare they saw and heard Matthias Aspden, the testator therein named, sign, seal, publish, and declare the same will for and as his last will and testament; and that at the doing thereof he was of sound mind, memory, and understanding, to the best of their knowledge. Coram.

BENJAMIN CHEW,
Register General.

Same day, Abraham Leddens, Matthias Aspden, and Mary Aspden, (others absent,) executors, were duly qualified, and letters testamentary granted unto them.

COMMONWEALTH OF PENNSYLVANIA,
City and county of Philadelphia, ss.

I, John Humes, esq., register for the probate of wills and granting letters of administration, in and for the city and county of Philadelphia, in the Commonwealth of Pennsylvania, do hereby certify the preceding writing to be a true copy of the original last will and testament of Matthias Aspden, deceased, as well as the probate thereof, as filed and recorded in the register's office, for the city and county of Philadelphia.

Given under my hand and seal of office, this 26th day of September, A. D. 1831.

[L. S.]

J. HUMES,
Register.

MATTHIAS ASPDEN'S SUCCESSION.

LISTS OF THE HEIRS AND KINDRED OF THE WHOLE AND HALF-BLOOD OF MATTHIAS ASPDEN, THE TESTATOR.

NOTE.—The names in *Italic* are of persons who died before Matthias Aspden, the testator. The numerals, (1, 2, 3, &c.,) prefixed to the names, denote the persons living at the death of the testator, and entitled as kindred. Where any doubt exists upon the evidence, either as to the fact of death or to the christian or surname of the person, a mark (*) has been added.

TABLE FIRST.

Kindred of the half-blood.

3D DEGREE. *Children of half-brothers and sisters.*	4TH DEGREE. *Grandchildren of half-brothers and sisters.*	5TH DEGREE. *Greatgrandchildren of half-brothers and sisters.*
Matthias Harrison.	*Henry.*	1 Mary Francis Harrison.
	2 Rebecca, wife of Jas. McMurtrie.	
3 George Harrison.		
Marry Harrison married Bishop White.	4 Thomas H. White.	
	5 Elizabeth m. *Wm. M'Pherson.*	
	6 Mary m. *Enos Bronson.*	
7 Thomas Hartley.*		
8 Peter Hartley.*		
9 Rebecca Hartley* married —— Doan.		
10 Roger Hartley.*		
11 Edward Hartley.*		
12 Martha Hartley*		
13 Barsheba Hartley* married Thomas Adams.		
14 Ann Zane married *Isaac Ellis.*		
15 Sarah Zane married Samuel Champion.		
16 John Zane.		
17 Samuel Zane.		
18 Isaac Zane.		
John Hinchman.	19 Hannah, wife of Joseph White.	
	20 Elizabeth, wife of J. Hollinshed.	
	21 John Hinchman.	
	22 Ann Hinchman.	
	23 Jacob Hinchman.	
	24 Rebecca Hinchman.	
	25 William Hinchman.	
	26 Catharine, wife of Jos. Heritage.	
Ann Hinchman married *John Scull.*	27 Joseph Scull.	
	28 Ann, wife of John Shannon.	
	29 John H. Scull.	
	30 Rebecca, wife of Thos. K. Stiles.	
	31 Ruth, wife of John Middleton.	
	32 William Scull.	

TABLE FIRST—Continued.

3D DEGREE. *Children of half-brothers and sisters.*	4TH DEGREE. *Grand children of half-brothers and sisters.*	5TH DEGREE. *Great grandchildren of half-brothers and sisters.*
33 William Hinchman.		
34 James Hinchman.		
35 Rebecca Hartley married Thomas Burrough.		
Mercy Hartley married *John Brick.*	36 John Brick.	
James Hartley.	37 Thomas Hartley.	
	38 Elizabeth, m. Daniel Fortner.	
39 Asher Hartley.		
40 Barsheba Hartley married *John Brick.*		
41 Elizabeth Hartley married Samuel Brick.		
Mary Hartley married Samuel Brown.	42 Edmund Brown.	
	43 Mary Brown.	
	44 Elisha Brown.	
45 Mary Key married *John Church.*		
Isaac Key.	46 Mary, wife of Joseph Key.	
	47 Henrietta, wife of Wm. Key.	
Matthias Key.	48 Eliza, wife of *	
	49 Ann, wife of *	
	50 John Key.	
	51 Rebecca, wife of *	
	52 Mary Ann, wife of *	
53 Ann Key married Joseph Worrell.		
Elizabeth Key married *John West.*	54 Jane, wife of Joseph P. Horner.	
	55 Mary, widow of Whitton Evans.	
	56 John K. West.	
	57 Eliza, wife of Samuel Nevins.	
	58 Harriet, wife of Dexter Stone.	
	59 Thomas West.	
60 Rebecca Key married *Nehemiah Fowler.*		

TABLE SECOND.

Kindred of the whole blood.

MATERNAL LINE.

MATERNAL GRANDFATHER.	CHILDREN OF MATERNAL GRANDFATHER.	GRANDCHILDREN OF MATERNAL GRANDFATHER.
Philip Packer married *Rebecca Jones.*	I. *Samuel Jones Packer.*	*I. Parthena*, m. *William Loper.* *II. Rebecca*, m. 1. —— *Caldwell.* 2. —— *Robinson.* *III. Ruth*, m. *James Duffield.* *IV. Daniel.* *V. Ellen*, m. 1. *Amos Bee.* 2. *Isaiah Hunt.* *VI. John Packer.* VII. Rhoda, m. *Samuel Borton.*
	II. *Rhoda*, m. *George Hammit.*	*I. Samuel Hammit.* *II. Benjamin Hammit.* *III. Thomas Hammit.* *IV. Rhoda*, m. *William Whitton.* *V. Theodosia*, m. —— *Mannery.* *VI. John Hammit.* *VII. Joseph Hammit.* *VIII. George Hammit.* *IX. Sarah*, m. *John Wolohan.* *X. Elias Hammit.*
	III. REBECCA, m. 1st *Roger Hartley.* 2d MATTHIAS ASPDEN.	
	IV. *Sarah*, m. *John Carter,*	*I. Martha*, m. 1st *Wm. Nicholson* 2d *Edward Taylor.* *II. John Carter.* *III. Samuel Carter.* *IV. Jeremiah Carter.* *V. Daniel Carter.* *VI. Sarah*, m. 1st *John Stevenson.* 2d *Jonas Cattel.* *VII. Joanna*, m. *Henry Paxton.*

TABLE SECOND—*Continued.*

4th DEGREE.	5TH DEGREE.	6TH DEGREE.
Children of maternal uncles and aunts.	*Grandchildren of maternal uncles and aunts.*	*Great grandchildren of maternal uncles and aunts.*
Pathena Packer, married *William Loper.*	1 Rhoda, wife of —— Bailey 2 Uriah Loper. 3 Rachel Loper.	
Rebecca Packer, married 1st.—*Caldwell*, 2d—*Robinson.*	*Sarah*, wife of *Thomas Sims.*	4 Sarah, wife of —— Buckover
Ruth Packer, married *James Duffield.*	5 John Duffield. 6 Edward Duffield. 7 Rhoda, wife of Jas. Reynolds	
Daniel Packer.	8 SAMUEL PACKER, (the complainant, and heir at common law, *ex parte materna.*)	

TABLE SECOND—Continued.

4TH DEGREE.	5TH DEGREE.	6TH DEGREE.
Children of maternal uncles and aunts.	*Grandchildren of maternal uncles and aunts.*	*Great grandchildren of maternal uncles and aunts.*
	9 Susan, wife of Hugh Cox.	
	10 Elizabeth Packer.	
	11 Daniel Packer.	
	12 John Packer.	
Ellen Packer, married *1st Amos Bee.*	13 Packer Bee.	
	Ellen, m. 1st *Isaac Leeds.*	14 Isaac Leeds.
		15 Charlotte, wife of *Jason Sickle.*
		16 Ruth Leeds.
		17 Mary Ann Leeds.
	m. 2d *Joseph Wiley,*	18 Hazlewood Wiley.
		19 —— Wiley.
	20 Rebecca, wife of Asa Vansciver.	
2d Isaiah Hunt.	21 Samuel Hunt.	
	22 Rhoda, wife of Jacob Sickler	
	23 Isaiah Hunt.	
John Packer.	24 Edward E. Packer.	
	25 James Packer.	
	26 Martha, wife of John Stewart	
	27 Mary, wife of John Derrickson.	
28 *Rhoda Packer,* married *Samuel Borton.*		
Samuel Hammit.	29 Sibylla, wife of John Prickett	
	30 William Hammit. *	31 Rachel, widow of —— Glasgow.
	Sarah m. *John Berryman.*	32 Issue of Jane Bickham.
	Jane m. *Caleb Bickham.*	33 Two children.*
Benjamin Hammit.	34 (Issue of Benj. Hammit.*)	
Thomas Hammit,		35 John Richards.
	Rachel m. *John Richards.*	36 William Richards.
Rhoda Hammit married *William Whitton.*	37 Mary, wife of Thos. Haines.	
Theodosia Hammit married —— *Mannery.*	38 Thomas Mannery.*	
	39 Rachel m. John Green.*	
John Hammit	40 Elizabeth, widow of *Joseph Newton.*	
	41 Eves Hammit.*	
	42 Thomas Hammit.	
	43 John Hammit.	
	44 Hepzibah Hammit.	
	45 Amy, wife of Thomas Shinn.	
	46 Priscilla, wife of Peleg Brown	
	47 Sarah, wife of Stacy Baxter.	
seph Hammit,	*Ann* m. Abra'm Lippincott,	48 Joseph Lippincott.
	49 Martha, widow of *Wm. Cole.*	
	George Hammit.	50 Leah, wife of Aaron Pricket.

TABLE SECOND—Continued.

4TH DEGREE. *Children of maternal uncles and aunts.*	5TH DEGREE. *Grandchildren of maternal uncles and aunts.*	6TH DEGREE. *Great grandchildren of maternal uncles and aunts.*
	51 Lydia, widow of *Saml. Blackwood.*	
	52 John Hammit.	
	53 Keturah, widow of *Court Schneck.*	
	54 Sarah, wife of Stacy Kirkbride.	
	55 Joseph Hammit.	
	Hannah m. *Joseph Hays.*	56 Maria Hays.
George Hammit	*Keziah*, m. *Jesse Vickers.*	57 David Vickers.
		58 Mary Vickers.
		59 Phœbe Vickers.
		60 Hannah Vickers.
		61 Sarah Vickers.
	62 Mary, widow of —— *Wood.*	
	63 Daniel Hammit.*	
	64 Rhoda, m. Wm. Sweaton.*	
Sarah Hammit. married *John Wolohan*	65 Amy, widow of *Isaac Ivens.*	
	66 John Wolohan.	
	67 Jacob Wolohan.	
	68 Rhoda, widow of *Aaron Powel.*	
	Mercy, m. 1*st Isaac Hillman.*	69 Ellis Hillman.
		70 Mary Ann, wife of Samuel Sloan.
		71 Amy Hillman.
		72 Martha Hillman.
	Mercy, m. 2d John Mull.	73 Emmeline Mull.
Elias Hammit.	74 Levi Hammit.	
	75 Thomas Hammit.	
	75 Rebecca Hammit.	
	77 Anne, wife of Michael Rinehart.	
Martha Carter. married 1*st Wm. Nicholson.* 2d *Edward Taylor.*	78 Martha, wife of Jacob Shaw.*	
John Carter.	*Elvery* m. *Cornelius M'Dermot.*	79 Priscilla M'Dermot.
		80 Ann M'Dermot.*
		81 John M'Dermot.
	82 Sarah, m. *Isaac Hewit.*	
	Joanna, m. *John Wallender.*	82, 83, 84 Two sons and a daughter, Names unknown.*
	Samuel Carter.	85 Aaron Carter.*
		86 Jonathan Carter*
		87 Joseph Carter.*
	John Carter.	88 Priscilla Carter.*
		89 Catharine Carter.*
		90 Mary Carter.*
		91 Ann Carter.
	Edward Carter.	92 James Carter.*
		93 Sarah, wife of Samuel Watson.

TABLE SECOND—Continued.

4TH DEGREE.	5TH DEGREE.	6TH DEGREE.
Children of maternal uncles and aunts.	*Grandchildren of maternal uncles and aunts.*	*Great grandchildren of maternal uncles and aunts.*
Samuel Carter.	94 Christiana Carter.*	
Jeremiah Carter	*Amy*, m. *Nathan Ward.*	95 Amy Ward.
		96 Sarah Ward.
		97 Hannah, wife of Sam. Easely
	Sarah, m. *Abel Pearce.*	98 Ann, wife of Nehemiah Tubman.
		99 Elizabeth, *widow of J. Johnson*
	100 Ann, widow of *George M'Kean.*	
Daniel Carter.	101 Nathan Carter.*	
	102 Bartholomew Carter.*	
	103 Daniel Carter.*	
	104 John Carter.*	
	105 Jeremiah Carter.*	
	106 Martha, m. John Buckler.	
	107 Elizabeth, m. John Turner.	
	108 Ann, m. *Andrew Sweaton.*	
Sarah Carter. married. 1 *John Stevenson.*	109 John Stevenson.	
2 *Jonas Cattel.*	110 Uriah Cattel.	
	David Cattel.	111 Sarah, m. *Ellis Parker.*
		112 Mary, m. *Samuel Jennings.*
		113 Jonas Cattel.
		114 Hannah, wife of Jos. W. Chase.
		115 William Cattel.*
		116 Isaac Cattel.*
		117 Joseph Cattel.
	Nathan Cattel.	118 Nathan Cattel.
	119 Amos Cattel.	
	120 Jonas Cattel.	
	Amy, m. *Judith Heritage.*	121 Elijah Heritage.
		122 Amos Heritage.
		123 Eli Heritage.
		124 Mark Heritage.
Joanna Carter married *Henry Paxton.*	125 Elizabeth, m. Isaac Pederick.	
	126 John Paxton.	

TABLE THIRD.

Kindred of the whole blood.

PATERNAL LINE.

4TH DEGREE.	5TH DEGREE.	6TH DEGREE.
Children of paternal uncles and aunts.	*Grandchildren of paternal uncles and aunts.*	*Great grandchildren of paternal uncles and aunts.*
Thomas Aspden,	*Mary,* m. *John Ashworth,*	Issue of Mary Ashworth.*
	1 JOHN ASPDEN, (Heir at common law.)	
	2 Andrew Aspden.	
	3 Matthias Aspden.	
	Nathaniel Aspden,	Issue of Nathaniel Aspden.*
	4 George Aspden.	
Nathaniel Aspden,	Issue of Nathaniel Aspden.*	
Elizabeth Aspden married —— *Corless,*	Issue of Elizabeth Corless.*	
Mary Aspden married *George Dyson,*	Issue of Mary Dyson.*	
Margery Aspden married 1st, *Cuthbert Haydock* 2d, *James Taylor.*	Issue of Margery Taylor.*	
Ann Aspden married *Lawrence Walmsley,*	Issue of Ann Walmsley.*	

In the case of Matthias Aspden's succession.

Depositions of witnesses produced, sworn, or affirmed, and examined in a certain cause depending in the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, wherein Samuel Packer is complainant, and Henry Nixon, executor of the last will and testament of Matthias Aspden, deceased, is defendant, before Thomas I. Wharton, a master of the said court, on Thursday, the 6th day of August, A. D. 1829, and by adjournment on Friday, the 7th, Tuesday, the 11th, Wednesday, the 19th of the same month, and on divers subsequent days, at the office of the said Thomas I. Wharton, in the city of Philadelphia, and by adjournment at the circuit court-room in the said city, in pursuance of an order of the said court dated the 19th day of May, A. D. 1829, and of another order dated the 12th of November, in the same year, as follows, viz:

The Right Reverend WILLIAM WHITE, bishop of the Protestant Episcopal church in the State of Pennsylvania, aged about eighty-one years, being duly sworn, deposes as follows:

I personally knew the late Matthias Aspden from my boyhood. I have seen his father. I was not acquainted with the family at that time. He resided in Arch street, between Second and Third. My wife was a granddaughter of Matthias Aspden, the elder. She was a granddaughter by the first marriage of Matthias Aspden, the elder. He was twice married. I always understood that there was no other child of that marriage than the mother of Mrs. White. I always understood and believed, that the late Matthias Aspden was the son by a second marriage with a widow lady of the name of Hartley. I never heard of any other child of that marriage than the late Matthias Aspden. The mother of my wife was married to Henry Harrison, commonly known as Captain Henry Harrison, of this city. The eldest son of Captain and Mrs. Harrison was named Henry, who died in infancy. The second was Joseph, who died without issue. The third was Matthias, who died a few years ago. The fourth was George Harrison, who is now living in the city of Philadelphia. He had no other sons to my knowledge. There were two daughters; my wife was one; her name was Mary. The other was a younger daughter, named Ann, who married Governor Paca, of Maryland. His christian name was William. Mrs. Paca died during our revolutionary war, and left one son, who died about a year after, without issue. Henry, the eldest son of Captain and Mrs. Harrison, died without issue. Mrs. White is deceased. All these persons, whose deaths I have mentioned, died before Matthias Aspden, the testator. Matthias Harrison, the son of Captain Henry Harrison, left issue, a son and a daughter. The son, whose name was Henry, died before the testator, and left issue, one daughter and a son. The son died without issue. The daughter is now living, an infant. The daughter of Matthias Harrison is Rebecca, the wife of James M'Murtrie. She is now living.

The children of my wife, Mrs. White, are, Thomas H. White, now living; Elizabeth M'Pherson, now living; Mary Bronson, deceased; there were other children, who died in their infancy, without issue. My daughter Mary married Enos Bronson, who is also deceased. They left five children, Mary, Ann, Elizabeth, Hetty, and William White Bronson, who are all living. I knew Matthias Aspden, the testator, at the time he left the United States, at the commencement of the American revolution, to go to England. I was in habits of personal intercourse with him at that time. I believe I know the object of his visit to England. He went to England with the object of saving a ship which belonged to him, and which had been arrested there under an order in council, which extended to all American vessels. This was, probably, a short time before the declaration of independence. He was in the habit of familiar intercourse with my family a short time before he went away. I was in habits of free communication with him, and he with me. He never communicated to me, at that time, any intention of changing his domicil. I know of no arrangement made by him for changing his domicil. I do not believe that it was his intention to change his domicil at that time. The first time that he returned to Pennsylvania was previous to my visit to England in 1786. It must have been some time between 1783 and October, 1786. He was at least twice in Pennsylvania after 1786. I returned from England in April, 1787. During these occasions we had free intercourse with each other. In these interviews he never said any thing to me of his having changed his domicil. I think we were on such terms of intimacy that it is probable, if he had had such a purpose, he would have communicated it to me. After the revolution, between the peace of 1783, and October, 1786, he was desirous of remaining in this country, but became apprehensive for his personal safety, without any cause, as far as I could ascertain. I went with him to Mr. Ingersoll, to consult with him on the subject. Mr. Ingersoll was of opinion that he might remain with safety; notwithstanding which, the impression on Mr. Aspden's mind was not removed, and he went away from the State, and went to England. After my return from England, when Mr. Aspden was here, he resided with James Hartley, his half-brother. Mrs. White was then living, and he visited intimately in my family.

Being cross examined on the part of John Aspden, the son of Thomas Aspden, an English claimant, the witness says: To my knowledge Matthias Aspden, the testator, never took the oath of allegiance to this country. I do not know that he ever did. He was decidedly opposed to the revolution. He was attainted in consequence of not having returned to this country within the time limited by the proclamation of the supreme executive council. His alarm, on which he consulted Mr. Ingersoll, was of a political nature, relating to his absence from the country during the revolution. He did nothing during the revolutionary war for which he could have been legally punished. He was a housekeeper here, before I went to England, in the year 1770. He

lived in Water street, between Market and Arch streets. He resided with his mother. I have understood that the house was devised to him by his father. He had a farm in Chester county of, I believe, no great value. His mother died not long after I was married, which was in February, 1773. I saw her only once. I think he was a housekeeper just before he left this country for England in 1776. He continued to reside in Water street, between Market and Arch. I never knew him to reside in any other house. I will not be positive that he was a housekeeper just before his leaving this country in 1776, or whether he was at lodgings, but he was a housekeeper some few years previous, I am certain.

Being examined on the part of certain petitioners: I do not know the name of the widow Hartley previous to her marriage with Mr. Hartley.

I cannot say how long he was here on his first visit, after the peace of 1783. It was probably some months. His second visit after the peace lasted some months certainly, during all which time he lodged with his half-brother. I have no recollection of the length of his stay during his third visit here. He did not stay long. He left Philadelphia to go to Canada with the expectation, I think, of returning here; but the first I heard of him afterwards, was that he was in London.

I corresponded with him occasionally while he was in England.

Enos Bronson, my son-in-law, died before the testator, Matthias Aspden. Mary Bronson died in 1826, since the death of the testator.

WM. WHITE.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this sixth day of August, A. D. 1829, before me.

T. I. WHARTON, *Master*.

Barsheba Thompson, of the county of Gloucester, in the State of New Jersey, wife of Joseph Thompson, aged about sixty-five years, being duly affirmed on the part of the complainant in the bill, deposes as follows:

I was married to John Packer before I married my present husband. I married John Packer forty-six years ago this next fall. I do not know that I was intimately acquainted with his family before the marriage, but I was afterwards. Generally I knew of the births, marriages, and deaths in his family. By what I have heard in the family, I knew of the births, marriages, and deaths in his family before the marriage. I have heard particularly from his mother. I expect she must have been about seventy years old at the time of my first marriage. She was a very elderly woman. My first husband was the son of Samuel Jones Packer. As near as I can tell he had the following children: Parthena, Rebecca, Ruth, Daniel, Polly, or Ellen, and then John, my husband. I believe that was all. Daniel was the oldest son. As far as I have heard, Samuel Jones Packer was the son of Philip Packer and Rebecca, whose name was Jones before she was married. I remember hearing of two other children of Philip Packer, viz., Rhody and

Rebecca. I am not positive of any others. I have heard that Rebecca married Roger Hartley, her first husband. Her second husband was Matthias Aspden. I do not recollect whether she had any children by him, but I think she had a son, named Matthias Aspden. Daniel Packer, the eldest son of Samuel Jones Packer, had the following children: Samuel Packer was the eldest son. I believe he is the eldest son; I have always heard so. He lives in New Jersey, somewhere about Woodbury; his other children were Susan, Betsey, Daniel, and John. The children of John, my husband, and brother of Daniel, were Edward, James, Martha, and Mary. Edward is still living. James is living. Martha is living and married to John Stewart. Mary is living; I believe she married John Derrickson. They reside in the Western country. We had another child named John, who died at eighteen years of age, without issue. Samuel Jones Packer had a brother. I do not remember whether he was a younger brother, or if he died without issue. Upon reflection, I think his name was Daniel, and that he died without issue. I recollect hearing them tell it. I do not know whether he was a younger brother of Samuel Jones Packer.

Being examined by Mr. Bouvier on the part of Job Packer, the witness says: I do not recollect to have heard of Philip Packer, brother of Samuel Jones Packer. I think I have heard of Philip Packer having married Ann Coates. I cannot tell where they resided. I have not heard of a James Packer, son of Philip, to my recollection. I do not know Job Packer, nor Aaron Packer, nor Moses Packer. I do not recollect to have heard of them.

Being examined by Mr. Brown, on behalf of certain petitioners, the witness says: I know Rhoda Borton. She is living, to the best of my knowledge. She was the daughter of Samuel Jones Packer and Ellen Packer, and aunt of the present Samuel Packer. She resides in Evesham, between Moorestown and Mount Holly. I believe she was first cousin to Matthias Aspden, as near as I have heard. Parthena Packer was married to William Loper. She died many years ago, leaving three children, Rhody, Uriah, and Rachel. I do not know whether they are all living. They were living, three or four months back, in Pittsburg, Salem county, New Jersey, which is the last I have heard of them. They reside at Pittsgrove. Rebecca Packer, sister of Parthena, married twice; one of her husbands was named Caldwell. I do not know the name of the other husband, but believe it was Robinson. I knew but one child that she left by Caldwell, whose name was Sally. She is dead. She left one daughter, named Sally, I think, who married, is dead, and left one child, whose name I do not know. It is a boy. She died a few years ago. I cannot tell how long. Rebecca Caldwell left no children by Robinson, her second husband. Ruth, the sister of Parthena, married James Duffield. She died in the fever of 1793, leaving John, Edward, and Rhody, who married Reynolds, James Reynolds. Ruth had also a son named James, who is dead. I do not know when he died. I suppose he was about twenty-four when he died. I do not know that he left any children; Rhoda Reynolds

died this spring. Edward Duffield and John Duffield are both living. John, the brother, of Samuel Packer, the complainant, is living. Daniel, his brother, is living, as near as I can tell. Susan is living. She married Hugh Cox. Elizabeth is living. She is single. Ellen Packer married Amos Bee. She died several years ago. I am not positive whether she died before or after Matthias Aspden, the testator. She left several children, Samuel, Ephraim, Packer, Ellen, Rebecca. These are all, I believe, of the first marriage. She married a second time and had children, but I do not know whom. Samuel, the son of Ellen, is dead. He died many years ago. I believe he left no children. Ephraim died several years back, before Matthias Aspden, leaving no children. Packer Bee is dead. I cannot say how long ago, but it is since the death of the testator. He left one child, named Deborah. She resides somewhere in New Jersey. Ellen Bee married Isaac Leeds, and afterwards Joseph Wiley. She is dead. She died since Aspden's death, I think, three or four years ago. She left three children by Leeds, Isaac, Charlotte, and Ruth, and perhaps one named Mary Ann; I do not positively know. I believe they are all living. She had one or two children by Wiley. I do not remember their names. Rebecca Bee married one Vansciver; I believe his first name was Asa. They are both living. They reside somewhere in New Jersey. Ellen Packer, who first married Bee, afterwards married Isaiah Hunt. I cannot tell how many children she had by him. She had several. I have often heard that Daniel, the son of Philip Packer, died without issue. I have heard that there was a Martha Packer, daughter of Philip and Rebecca, and of a Rhoda, her sister, but I do not know whom they married.

Being examined on the part of the complainants, the witness says, I have seen Matthias Aspden, the testator, at my mother-in-law's house. I resided there also. It was about two or three years after I was married to my first husband. He came to see her after he came from England. He called her his aunt, and treated her as his aunt. He said that he had come over here after some money that he had left in the hands of his step-brother, James Hartley, who would not give it up to him. Said he, aunt, if I live and prosper, I shall be in as good a way as he is. I will leave it to you and your children. He staid there one night, and soon afterwards went to England. Rhoda Burton was the own sister of Daniel Packer.

her
BARSHEBA ⋊ THOMPSON.
mark.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to this 6th day of August, 1829, before me.

T. I. WHARTON, *Master*.

ELEANOR EARICK, of Camden, in the State of New Jersey, widow, aged about sixty-five years, being duly affirmed on the part of the complainant, deposes as follows:

I know Samuel Packer, of the neighborhood of Woodbury, the

complainant; I have known him since he was a very little boy; I knew him before the revolution, that is, before the declaration of independence; I lived near them, and as in one family, before I went to live in the family; I was brought up in his father's family, and married while residing with them. I knew the mother of Samuel Packer. His father's name was Daniel; Daniel Packer, as far as I can recollect, had four daughters, of whom two are now living. He had three sons; I expect they are all living now. Samuel, the complainant, was the eldest. I knew the mother of Daniel Packer, and was well acquainted with her; she was quite an old woman when I knew her. As well as I can remember, Daniel Packer was the son of Samuel. I did not know Samuel, the grandfather, myself; he was dead before my knowledge, but I have heard that he was the father of Daniel. I do not know any thing of his brothers and sisters. I don't know any thing farther back than this: Daniel, the father of the complainant, had one brother, John; I do not know any others. He had several sisters. Daniel was the oldest of the brothers considerably.

The counsel for the other claimants decline any cross examination.

ELEANOR EARICK.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to this seventh day of August, 1829, before me.

T. I. WHARTON, *Master*.

RHODA BORTON, aged about eighty-four years, residing in the county of Burlington, in the State of New Jersey, in Evesham township, widow, being duly affirmed on the part of the petitioners, deposes as follows:

My father's name was Samuel Packer, sometimes called Samuel Jones Packer, and he sometimes put the Jones first. He was the son of Philip Packer, of Pensaucken; he (Philip) married Rebecca Jones; she was his second wife, and the daughter of Daniel and Mary Jones, as I have been told. The children of Philip Packer, by Rebecca Jones, were Samuel, Daniel; no other sons that I have any knowledge of; daughters, Rebecca, Martha, Rhoda, Mary, I believe the name was Sarah, not Mary. Sarah married John Carter; don't know her children; I believe she left children, but they were out of my knowledge. Rebecca was married to Roger Hartley, of Bucks county; she married secondly, Matthias Aspden. Her children by Roger Hartley were Roger, James, Benjamin, Ann, Jennet, Barsheba, and Rebecca. I don't recollect any others, and am not sure that I have stated them in the order of their births. She left one child by Aspden, a son named Matthias; he was the only child that ever I knew of. I was personally acquainted with Matthias Aspden, the younger, and lived with his mother while he went to England. I cannot tell if Roger Hartley, the younger, left any children; he was living in Pennsylvania some time ago; James and Benjamin are both dead; James left no children that ever I heard of; he died more than ten years ago, soon after I was married; Benjamin left daughters; I don't know of

any sons; don't remember how many daughters, nor their names; some of them married into the Brick family; Ann, the daughter of the first Roger Hartley, is dead; she married William Hinchman; she left children; one named Ann, another William, one John; he is dead, he lived in Moorestown. Jennet died a young woman unmarried; Barsheba married Nathan Zanes, and left two daughters and some sons; the daughters are living, and I believe some of the sons; the daughters were named Ann and Sarah; Ann married a person named Ellis, and Sarah a Champion; Ann lived recently near Haddonfield, and Sarah in it; Rebecca, daughter of the first Roger Hartley, married John Kay; they are both dead, leaving children, whose names I do not know; they have been dead more than ten years; they left a son named Matthias; he is dead; he was married; I don't know if he left children; he died not a great while ago, perhaps eight or ten years ago. My father, Samuel Packer, had ten children, Parthena, Rebecca, Susan, Sarah, Samuel, Ruth, myself, Rhoda, Daniel, John, Ellinor. Parthena married William Loper; they are both dead; they died more than ten years ago, I expect; they left Uriah, Rhoda, and Rachel, their children; I can't tell if Uriah is living; he went to the new country; I understood that the father went after him, but he must be deceased if he did. Rhoda married a man named Bailey; I don't know whether she is dead or alive; Rachel, I do not know whether she married, or is living or dead; these are all the children of Parthena I know of. Rebecca married Caldwell; they are both deceased; he has been dead many years, and she too; they left one daughter named Sarah, and a son named Thomas, who died during the old war; Sarah married Thomas Sims, and had some children, who are deceased; they had two grandchildren; I can't tell their names; Thomas left no children. Susan and Sarah, my sisters, died children; so did Samuel. Ruth married James Duffield; she is dead; she died in the time of the yellow fever in Philadelphia; she left Samuel, John, James, and Rhoda; there was also an Edward; Samuel is dead; he died an infant; James died a young man out at sea; I expect he died unmarried; John is living; Edward is living; Rhoda is dead; she married James Reynolds; she died very lately, since the death of the testator. I married Samuel Borton. Daniel, my brother, has been dead many years; he left Samuel, John, Daniel, Susan, Elizabeth; these are all I can recollect; Samuel is living; I believe they are all living; there were children who died in infancy. Susan married Hugh Cox; Elizabeth is unmarried; my brother John is dead, leaving issue. His children were James, Edward, (I don't know which was first,) Martha, Mary, and John; John was the youngest; my brother John died a long time ago, more than thirty years ago; my husband has been dead more than thirty years *ago*. The children of my brother John are all living except John, who died twelve or thirteen years ago; he died a young man without children. My sister Ellinor married Amos Bee; they are both deceased; he died a considerable time ago; she married again, and died five or six years ago; her second husband was Isaiah Hunt; I think she died before Matthias Aspden's death; her children by Amos Bee were

Deborah, who died before her, Samuel, Ephraim, Packer, Ellinor, and Rebecca. Deborah died an infant; Samuel is dead, leaving no children that I know of; he died since his mother, about ten years ago; Ephraim died at sea, leaving no children, before his mother's death; Packer had one daughter; I don't know whether he is dead or alive; the daughter is named Deborah; she is unmarried. Ellinor Bee was twice married; her first husband was Isaac Leeds; her second was Joseph Wiley; she died I guess as much as seven years ago; her children by Leeds were one son, Isaac, Charlotte, Mary Ann, Ruth; Isaac is living for aught I know; Charlotte is just married to Jason Sickle; Mary Ann is living unmarried, and Ruth I believe; her children by Wiley I don't exactly remember; Hazlewood is one; he is living; they had a daughter who died a child; Rebecca Bee married Asa Vansciver; they are both living; Ellinor Bee had, by her second husband, Isaiah Hunt, Samuel, Rhoda, and Isaiah; they are all living, I believe; Rhoda married Jacob Sickle. Rhoda, my aunt, the daughter of Philip Packer and Rebecca Jones, married George Hammitt; they are dead many years ago, sixty years ago; they left children; they had Daniel, who died a young man unmarried, for all I have heard; George was the next; Samuel, Rhoda, Theodosia, Rebecca, John, Benjamin, Joseph, Sarah, Elias, Thomas; George is dead; he died many years ago, before I was married; he left children; one son Daniel, and some daughters, whom I do not recollect; Daniel lived in Moorestown; I don't remember the names of any of the daughters. Samuel Hammitt died, I believe, many years ago; I don't remember how many children he left, nor their names. Rhoda Hammitt married a man named William Wheaton, and had one daughter by him; they are both dead a long time ago; they died six or eight years ago; the daughter's name was Mary; she married Thomas Haines, I believe; I think she and he are both living; Theodosia Hammitt is dead; it may be ten years ago; she married a man named Manning, I think, and left children, whose names I do not know; Rebecca Hammitt died a young woman, unmarried; John Hammitt is dead, I believe; I don't know how long; I don't remember the children; he had sons and daughters, I believe; he had a son named Eves, but I don't know what became of him; I think he had a son Thomas, who deceased lately; he kept tavern; I don't know what children he left; I believe there was a daughter named Hepzibah; I have not heard of her death. Benjamin Hammitt went out to the new country and settled there; I don't know if he had children, and I never heard of his death; Joseph Hammitt married and lived at the Rising Sun; he died fourteen or fifteen years ago; I don't remember his children; he had a son George, but I cannot tell whether he is living or dead. Sarah Hammitt married Wolohan; she has been dead a good many years, and her husband too; I don't know that I saw any of the children except John; there were others whom I remember seeing when they were small; Elias Hammitt, son of Rhoda and George, I most think is dead, leaving a daugh-

ter or two; I think there were one or two others; Thomas Hammitt died many years ago; I know nothing of his children.

Being examined on the part of the complainant, the witness says: I cannot say whether my father was older than my uncle Daniel, but I rather expect so; my father died first; some of us were young when my father died; I was about eleven or twelve; two of them were married at the time he died; my uncle Daniel left no children; he had one who died an infant; Daniel, my brother, was older than my brother John; I had but two brothers; my brother Daniel died about ten years after my marriage, as well as I can recollect. (Produces her marriage certificate; married on the 11th of November, 1766, Samuel Borton to Rhoda Packer.) My uncle Daniel died about five or six years after my marriage; my brother Daniel died ten or fifteen years before my husband's death, which was about thirty years ago; Samuel was the oldest of my brother Daniel's sons; I can't say if the oldest child, but I believe he was; Samuel, my nephew, is living; I expect he is here now.

Being examined on behalf of Job Packer, the witness says: I do not recollect a Philip Packer, who married Ann Coates; my grandfather had a son Philip, who married and lived in Pennsylvania; he was not the son of Philip and Rebecca Jones; he was the son by a first wife; I have heard from my mother that he was a son by the first wife; I remember a son of his named Aaron, coming out of Pennsylvania to see my mother; I don't know the name of the first wife; he was an old man when he married my grandmother; I have heard my mother say that his head was as white as a sheet; I had not as good a chance of knowing the Philip Packer's family of Pennsylvania; I knew my grandmother very well; she came and staid with my mother; perhaps I was then ten years old.

Being examined on the part of John Zane and Isaac Zane, the witness says: Matthias Aspden, the testator, his brother, James Hartley, and waiting man, came to our house after they returned from England, not long afterwards, a few years perhaps. Matthias Aspden, the testator, went with his father to England, to get his, the father's, eyes couched; this was when I was about fourteen or fifteen years old; he wrote to his mother that he was then going to school in England; I don't remember when he went to England a second time; they came to see if uncle Daniel had signed his right to lots in the city of Philadelphia; this was before the war; this ground in Philadelphia my grandmother wanted my father Samuel to have, because he bore her maiden name; Matthias came down with Hartley to get all us children to sign our right to him; I believe Matthias Aspden returned to England about the beginning of the war; I think he came here after it was settled; I don't know how long he staid in this country; he was backwards and forwards several times; I did not see him the last time he was here.

RHODA BORTON.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this eleventh day of August, A. D. 1829, before me,

T. I. WHARTON,
Master.

ABIGAIL LIPPINCOTT, of Evesham, in the county of Burlington, in the State of New Jersey, widow, aged about eighty years, being duly affirmed on the part of the petitioners, deposes as follows:

I knew Matthias Aspden, the testator, when he was a boy. I knew his father and mother also. I think he was about my own age. His father and mother resided in Haddonfield when I knew them. His father's name was Matthias, and his mother's Rebecca. I always understood her maiden name was Packer. I don't know any more of her brothers or sisters than Rhoda. I knew she had a sister named Rhoda, who married George Hammitt. They both died many years ago. I don't know that I can exactly tell their children. They left George, Samuel, Benjamin, John, Thomas, Elias, Daniel, and Joseph. (Joseph was older I believe than John.) Rhoda, Theodosia, Sarah, and Rebecca, who died single. George is dead; he left Daniel, Rebecca, Mary, and Kesiah; these are all I know. Daniel is living in Ohio. Rebecca married some one in Philadelphia, and is living here. Mary is married, I do not know to whom, and is living. Kesiah married Vickers, is dead, and has left children; there are daughters and perhaps one son. I don't know anything of Samuel Hammitt. I expect Benjamin Hammitt is living. Joseph Hammitt is dead, leaving Ann, Hannah, Lydia, Martha, Keturah, Sarah, two sons, George and Joseph; there is a third, John, who is living, and here. Ann is dead. She married Abel Lippincott, and left one child. Joseph, who married, is dead. He died about two years ago. I don't know the names of his children. John Hammitt, the son of George and Rhoda, is dead. He left Eves, Thomas, and John, sons; Elizabeth, Hepzibah, Priscilla, and Sarah, daughters. There was also an Amy. Eves went away, and we don't know what became of him. Thomas is dead; died last spring, leaving one son, William. John is dead; died about four or five years ago. He left children whose names I don't recollect, except that one of his children was named Rachel. Elizabeth, the daughter of John, married Joseph Newton, and is living not far from me. Hepzibah is living and unmarried. Priscilla married Peleg Brown, and is now living. Amy is living; she married Thomas Shinn. Sarah married Stacy Baxter, and is living. Thomas, the son of Rhoda and George Hammitt, is dead. He left one child, who is also dead, leaving no children as I believe. Elias Hammitt married first, Ann Lippincott, and secondly, Leah Middleton. His first wife was my husband's sister. He had one son, Levi, by his first wife; he is living. He had other children who died in their infancy. By his second wife Elias had Thomas, Ann, and a third whose name I do not recollect. Thomas is living. Ann is married, and living in Philadelphia. The other is a female; she is also living and married. Daniel Hammitt, son of George and Rhoda, I have no recollection of. Rhoda, his sister,

married William Wheaton. She is dead, leaving a daughter, Mary, who married Thomas Haines, and is living. Theodosia married one Mannery. She is dead, and left one daughter, who married John Green. She is living in Ohio, as well as I know. She left also one son, whose name I do not know. Rebecca Hammitt died unmarried many years ago. Sarah married John Wolohan; she is dead about seven or eight years ago, leaving children, whom I do not know. I don't know any other relations of Matthias Aspden. I knew the Keys, and knew that they were related to the wife of the elder Matthias Aspden. Matthias Aspden, the testator, was never married as far as I know.

Being examined on the part of the Zanes, the witness says: I knew Rebecca, the mother of Matthias Aspden. Her maiden name was Packer. Her first husband was Roger Hartley. Their children were Barsheba, Rebecca; I think Barsheba was the oldest. I don't know if there were others. Barsheba married Nathan Zanes. They had one son and two daughters. They were named Sarah and Ann. I don't know the son's first name. Sarah married Samuel Champion. They are both living. Ann married Isaac Ellis; he died about a year ago. She is living. Nathan and Barsheba Zanes had one son that I know. There might be others, but I guess not.

Being again examined on the part of the petitioners. I was acquainted with the family of Matthias Aspden, the elder. I do not think he ever was married more than once, and that was to Rebecca Packer. I never heard of a previous marriage. He might have been, but that was all I ever heard of; but I have heard that there was a female living in the family who was said to be his adopted daughter. I do not remember her name, and I do not know who she married. It was said that this adopted daughter was his own child, born out of wedlock. I was young at the time, and heard them talk so. I never heard of any other daughter of Matthias, the elder, except that adopted child. The children of John and Rebecca Key were, as well as I know, Mary, who married Church, she is living; Isaac Key, he is dead. He has been dead many years. He left two daughters only. One married to another Isaac Key's son; they are now living. The other daughter is living and married. I don't know their names. There was a son of John and Rebecca Key, named John, who died a young man, without children. There was another son named Matthias, who is dead; he left two daughters, who are living in the State of Ohio with their mother. I think there were more children of Matthias, whom I do not know. There were no other children of John and Rebecca Key, except Ann, who married Dr. Cathrall; she is now living, and married a second time. There was another daughter, Elizabeth, who married John West. I believe she is living. He is dead. There was also a daughter, Rebecca, who married Bolton, and is now living.

ABIGAIL LIPPINCOTT.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this eleventh day of August, 1829, before me,

T. I. WHARTON, *Master*.

RHODA BORTON, being re-examined on the part of the petitioners, deposes as follows: I have heard of Matthias Aspden being twice married. The issue of the first marriage was a daughter, who was married to Captain Harrison. I never heard when I was young, many years ago, any doubts of her having been born in lawful wedlock.

RHODA BORTON.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this eleventh day of August, 1829, before me,

T. I. WHARTON, *Master*.

RACHEL HAMMITT, of Evesham, in the county of Burlington, and State of New Jersey, widow, aged about 73 years, being duly affirmed on the part of the petitioners, deposes as follows:

I knew the late Matthias Aspden, the testator. He was frequently at my husband's house. He was the first cousin of my husband. He visited my husband as a relation. They were about the same age: I often heard him say so. I have heard him say that he and my husband were own sisters' children. My husband was John Hammitt. His father was George, who married Rhoda Packer. She had a sister named Rebecca, who married one Hartley. I believe his name was James Hartley. He was her first husband. Her second was Matthias Aspden. She had no other children by the last than Matthias Aspden, as I have ever heard. My husband's mother had two brothers besides, viz., Daniel and Samuel. I knew of no other sister than Rebecca. I don't know that I ever knew which was the oldest of the four. I have heard my husband say that his mother died when he was quite small, about seven years old. She left the following children, Samuel, Benjamin, Thomas, (I think he was the next,) Rhoda, then Dosy or Theodosia, then John, my husband, then Joseph, George, Sarah, Elias, and Rebecca. Rebecca died quite young, and so did Daniel. Samuel, my husband's brother, died as much as forty years ago, leaving 1st, Sibilla, who married John Prickett, and I believe is still living; 2d, William, who removed to the back country; I do not know whether he is living or dead; 3d, Sarah, who married John Berryman, who I think are both dead, and left one child named Rachel, I think; I do not know whether she is dead or alive; 4th, Jane, who married Caleb Bickham; I do not know whether they are living or dead. Benjamin, my husband's second brother, went to the back country: I have heard that he is dead, leaving a wife and children. Thomas died thirty or forty years ago, leaving a daughter named Rachel, who is also dead, as I believe, without issue. Rhoda married William Whitton, and died six or seven years ago, perhaps more, leaving one child, who married Thomas Haynes; her name was Mary; she is living. Theodosia married Thomas Mannery: he has been dead many years, and she also. They had children, Thomas and Rachel. Thomas went to the back countries; I do not know if he is living or dead. Rachel married John Green; I expect they are both living. My husband has been dead

eight years this spring. He left 1st, Elizabeth, who married Joseph Newton. She is living, a widow; 2d, Eves, who left Philadelphia eight or nine years ago; I never heard of his death; 3d, Thomas, who died last spring, leaving one child named William; 4th, John, who died about three years ago, leaving Samuel, Thomas, Elizabeth, Rachel, Mary Ann, and John, all of whom are living (except Elizabeth) and all under age; 5th, Hepzibah, who is living and single; 6th, Amy, who married Thomas Shinn, and is living; 7th, Priscilla, who married Peleg Brown, and is living; 8th, Sarah, who married Stacy Baxter, and is living: these are all our children. Joseph, my husband's brother, died twenty years ago, leaving 1st, Ann, who married Abraham Lippincott, and died about eleven years ago, leaving a son, Joseph, who died about two or three years ago, leaving a wife, and a son, a minor, whose name I do not know; 2d, Martha, who married William Cole; she is living, and a widow; 3d, George, who died seven or eight years ago, leaving a daughter Leah, who married Aaron Prickett, and is living; 4th, Lydia, who married Samuel Blackwood, and is living, a widow; 5th, Keturah, who married Court Schenck; she is also living, a widow; 6th, Joseph, who is living; 7th, John, who is also living; 8th, Sarah, who married Stacy Kirkbride, and is living; 9th, Hannah, who married Joseph Hays, and died twelve or fifteen years ago, leaving one daughter, Maria, who is living, and unmarried. George, my husband's brother, has been dead these fifty years, leaving, 1st, Keziah, who married Jesse Vickers; she died four or five years ago, leaving David, Mary, Phœbe, Hannah, and Sarah, who are all living; the females are all unmarried; 2d, Mary, who married one Wood; she is living, and a widow; 3d, Allen, who died many years ago, without issue; 4th, Daniel; he is living as far as I know; 5th, Rhoda, who married William Sweaton, and is living. Sarah, my husband's sister, married John Wolohan, and died about eleven years ago, leaving 1st, Amy, who married one Ivens, and is living, a widow; 2d, John, who died about two years ago, leaving children, but I don't know how many; 3d, Jacob, who is living; 4th, Rhoda, married Aaron Powell, and is now living, a widow; 5th, Mercy, married one Morrell: I think I have heard she is dead, leaving children, whose names I do not know. Elias, my husband's brother, died about fifteen years ago, leaving, 1st, Benjamin, who died under age, and without issue; 2d, Hezekiah, who also died young, without issue; 3d, Levi, who is living. By a second marriage he had, 4th, Thomas, who is living; 5th, Rebecca, who is living; 6th, Anne, who married Charles Rhinehart: I believe that to be his first name, but I may be mistaken. Rebecca died very young, that is, under age: I mean my husband's sister. Rebecca Packer, the mother of Matthias Aspden, was married first to one Hartley. Their children were Benjamin, Bathsheba, Ann, who married William Hinchman, Rebecca, James; I do not know any others. Bathsheba married Nathan Zane, sometimes called Elnathan Zane. She died thirty or forty years ago, leaving 1st, Sarah, who married Samuel Champion, and is living; 2d, Ann, who married Isaac Ellis,

and is living; 3d, John; I never heard of his death; 4th, Samuel; I do not know of his death. I never heard of an Isaac.

Matthias Aspden, the testator, came to see my husband a short time previous to his going to England the last time he went, and in conversation with my husband I heard him say, there will be something clever for you when I am done with [it,] if you outlive me. This is the substance of what he said, but I cannot be particular about the words. I do not think Matthias Aspden, the father, was twice married. It is my full belief that he was married but once, and that was to Rebecca Hartley. I lived six months with Barsheba Zanes, the half-sister of Matthias, the testator, and think I should have known it if there was another married. I have heard that he had a child by a woman, but I do not know her name. I have heard this child was a girl. It was not a great many years ago that I heard this. At the conversation I have mentioned between Matthias, the testator, and my husband, Matthias Aspden inquired about the family, how many children they had, and how many children the brothers and sisters had.

RACHEL HAMMITT.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this twelfth day of August, A. D. 1829, before me. T. WHARTON, *Master*.

JOHN GILL, of Haddonfield, in the county of Gloucester, and State of New Jersey, farmer, aged about seventy-one years, being duly affirmed on the part of certain petitioners, deposes as follows:

I was acquainted with Matthias Aspden, the testator. He was the only son of Matthias Aspden by Rebecca, whose name was Hartley, the widow of Roger Hartley, who was her first husband. My father lived next door to Matthias Aspden, the elder. Rebecca Hartley had by her first husband Roger six children, as I remember; 1st, Roger; 2d, Ann; 3d, Benjamin; 4th, Bersheba; 5th, James; and 6th, Rebecca Kay, commonly called Key. Roger went away to Pennsylvania, and died in Bucks county, I suppose fifteen or eighteen years ago, leaving children, I think, of whom I know nothing. 2d, Ann married William Hinchman; she died about sixty years ago, leaving—1st, John; he died five or six years ago, I think before the testator. I do not know if he left children. 2d, Ann, who married John Scull, and died perhaps ten or twelve years ago, leaving children in Ohio; I remember one son named Joseph. 3d, William, who died about two or three years ago, about the time of the death of the testator, I think since, leaving a son named Joseph, who is living. 4th, James Hinchman, who died four or five years ago, leaving no children, I believe. 3d, Benjamin Hartley died during the revolution, leaving—1st, Rebecca, who married, I think, Thomas Burrough. I believe she is living without children. 2d, Mercy, who married John Brick, and died twenty or thirty years ago, leaving but one child that I know, named John; he is living. 3d, James, who died about seven years ago, leaving two children—Thomas,

who is now living, and Elizabeth, (I think her name is,) who married Daniel Fortner, and had one child who died soon after its birth. She died about four or five years ago. 4th, Asher, who is living. 5th, Barsheba, who married John Brick, who had previously married her sister Mercy. Barsheba is now living a widow. 6th, Elizabeth married Samuel Brick. They are both living. 7th, Mary married Samuel Brown. She died ten or twelve years since, leaving several children; I do not know their names. One was Edmund, another Mary, Elisha; I do not remember a Benjamin, Thomas Chalkly, or Israel. Samuel Brown, the husband, is living in the State of New York. Their children are living, as far as I know. I believe the daughter Mary is unmarried. Bersheba, the 4th child of Roger and Rebecca Hartley, married Elnathan Zane; I think she died ten or twelve years ago. She had—1st, Sarah, who married Samuel Champion, of Haddonfield, and they are now living. 2d, Ann, who married Isaac Ellis, and is now living a widow. 3d, John, who is now living. 4th, Samuel, who is now living. 5th, Isaac, who is also living. These are all her children. James, the fifth child of Roger and Rebecca Hartley, died fifty years ago without issue. I believe he was connected in business for a short time with Matthias Aspden, the testator. Rebecca Key, or Kay, the youngest child of Roger and Rebecca Hartley, married John Key; and died fifteen or eighteen years ago, leaving, 1st, Mary, who married John Church, and is now living. 2d, Rebecca married, first, Isaac Bolton; secondly, Nehemiah Fowler; she is now living a widow. 3d, Elizabeth, who married John West, and died perhaps seven years ago, leaving several children. I know one Jane, who married Joseph P. Horner; she is living. There are other children of Elizabeth West, whose names I do not know. 4th, Isaac Key, who died about twelve or fourteen years ago, leaving two daughters—Mary married Joseph Key, and is now living; and Henrietta married William Key, brother of Joseph, and is also living. 5th, John Key died eighteen or twenty years ago without issue. 6th, Matthias Key died nine or ten years ago, leaving several children. They removed to Ohio, and I do not know their names. 7th, Ann, who married Dr. Cathral, of Philadelphia; he is dead. I have understood that she married a second time, but I do not know to whom. I have understood she did marry Joseph Worrell. She is still living. I think there were no other children of Rebecca Key. I have heard of one Jennet, the daughter of Roger and Rebecca Hartley: I believe she died quite young. William Hinchman, the son of Ann and William Hinchman, left Joseph and Thomas, I think; I do not remember the others. I have heard there were daughters, but I do not remember them. I think Thomas Hinchman is living.

The marriage certificate of Elnathan Zane with Barsheba Hartley, dated 20th of 8th month, 1761, being shown to the witness, he says—I am acquainted with the handwriting of Mary Gill, my sister, one of the witnesses, who is dead; and of Thomas Redman, also deceased; and of Elizabeth Eastaugh; and believe the certificate to be in their proper

handwriting. Elizabeth Eastaugh is also dead. I have seen Thomas Redman and Mary Gill write their names. I have had occasion often to see the handwriting of Elizabeth Eastaugh. It was a peculiar one.

I knew the testator, Matthias Aspden, but was not very intimate with him. I met him frequently at his father's house which adjoined ours. It was the general understanding that he went to England during the revolutionary war to save his property, and, I believe, did save it. I saw him two different times on his first and second return to this country. He came to Haddonfield to see his relations, his brothers and sisters, and his native place. I had conversations with him. He came to my father (I think it was the first visit) to know if he was a member of the Society of Friends. He was very inquisitive about his relations. It was the talk of the neighborhood that he was to go to England, settle his affairs, and return to lay his bones in his native country. This was previous to his last visit to England. I take it to be about three years that he was in England at the last visit previous to his death. I have heard of Matthias Aspden, the elder, having had a daughter previous to his marriage with Rebecca Hartley. She was called illegitimate. The old man called her his daughter. I rather think he brought her from England with him. He brought no wife with him from England that I know of. I undersood this young woman or daughter married one Harrison. I seem to have some faint remembrance of a young woman living as housekeeper with the elder Matthias Aspden, but I never heard that she was the mother of this child. It was from twenty to fifty years ago that I heard of this young woman being the illegitimate child of the elder Matthias Aspden. I have heard that the person who married Captain Harrison was called the adopted daughter of Matthias Aspden. I never heard either of the Matthias Aspdens mention the name of this young woman. I am in no way connected with Matthias Aspden, the testator, or his family, by marriage or otherwise.

JOHN GILL.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, the twelfth day of August, 1829, before me.

T. I. WHARTON, *Master*.

REBECCA FOWLER, of Egg Harbor, in the county of Gloucester, in the State of New Jersey, widow, aged fifty years, and upwards, being duly affirmed on the part of certain petitioners, deposes as follows:

I am daughter of John Key, who married Rebecca Hartley, and sister of Elizabeth West. She died nine or ten years ago, leaving, 1st, Jane, who married Joseph P. Horner, and is now living. 2d, Mary, married Whitton Evens, also living. 3d, John, living in New Orleans. 4th, Rebecca, died six or seven years ago, it may be more, unmarried, and without issue. 5th, Eliza, who married Samuel Nevins, and both are living. 6th, Harriet, married Dexter Stone, and died about three years ago, leaving two children, both sons, now living, and minors.

Dexter Stone is living. 7th, Thomas, who died about two years ago, leaving a daughter, an infant, whose name I do not know. Mr. Joseph P. Horner is living. Matthias Key, my brother, died in New Jersey about sixteen years ago, leaving five children, I believe; 1st, Eliza; 2d, Ann; 3d, John; 4th, Rebecca; 5th, Miriam. There was a sixth named Charles. They removed to Ohio, shortly after his death, with his widow's father and mother, whose name was Bates. Samuel Bates. The last accounts we had of these children they were all living, and the daughters married, but we never learned the particulars of it. My sister Ann, the widow of Dr. Cathrall, married secondly Joseph Worrell, of the city of Philadelphia. They are both living.

REBECCA FOWLER.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this twelfth day of August, 1829, before me.

T. I. WHARTON, *Master*.

CATHARINE DILKS, of the county of Gloucester, in the State of New Jersey, widow, aged about seventy-one years, being duly sworn on the part of the petitioners, deposes as follows:

I have seen Matthias Aspden, the testator, but was not personally acquainted with him. I saw him when I was about eleven years old, when he came to my step-father's, Jeremiah Carter's house, on Timber creek. He called about his signing a quit-claim. I believe Jeremiah Carter's mother and Matthias Aspden's mother were sisters. Jeremiah Carter's mother was named Sarah Packer; this was her maiden name. Matthias Aspden's mother's name was Rebecca Hartley at her first marriage. Her maiden name was Packer. My step-father, Jeremiah Carter, had one child by his first wife, a daughter, Amy, who married Nathan Ward; he resided near Woodbury. She is dead. She died about eleven years ago, on the 13th day of July, leaving several children. One of them is named Hannah Easely, who is now living. She is married to Samuel Easely; they reside near Woodbury. Jeremiah Carter married, second, Jane Pearce, and had three children by her; John, who died thirteen years ago, unmarried. 2d, Sarah, who married Able Peirce, and died about six years ago last May, leaving 1st, Elizabeth, who married John Johnson, and is now living, a widow. 2d, Ann, who married Nehemiah Tubman; they are both living, I expect. 3d, Sarah, who died under age and unmarried, many years ago. The third child of Jeremiah Carter, by Jane Pearce, was Ann, who married George M'Kean, of Timber creek, and is now living, a widow. I do not say that the paper which my step-father signed, at the instance of Matthias Aspden, was a quit-claim; it was some instrument of writing. Old John Carter, the father of Jeremiah Carter, had several other children. The first was John; he died many years ago, leaving several children; I know of but one living; her name was Sarah; she married Isaac Hewitt; they are both living. I believe the other children of John Carter are all dead, leaving no issue. The

second child was Samuel, the brother of Jeremiah, who died many years ago, leaving one child named Sarah; she went away many years ago, and I do not know any thing further of her. The next child was Jeremiah. The next was Nathan, who went off many years ago, and I never heard any more of him. The next was Daniel, who died many years ago, leaving children; one of them was Nathan, who went to Cincinnati; I expect he is living; the last we heard of him he was living. The next child of Daniel was Daniel, who is now living in New Jersey. The next was Bartholomew, who is now living. There was a John, who went to the westward about twelve or thirteen years ago; I suppose he is living I believe Jeremiah was the next son; he is believed to be living. There was a daughter, Ann, who married Andrew Sweaton, and is now living, a widow. Martha was next; she married John Butway, and is now living. Elizabeth was next; she is now living, and wife of John Turner. Jeremiah Carter had the following sisters. 1st, Martha, who married Edward Taylor, and died many years ago, leaving one child, whose name was Martha; she went to Lancaster, and married there Jacob Shew; we have not heard of her death, and do not know what became of her. 2d, Sarah, who married Jonas Cattel; she has been dead many years, leaving a good many children. 1st, Uriah, who is now living. 2d, David, who has been dead many years, leaving several children, some of whom are living; one was Sarah, who married Ellis Parker, and is living, a widow. Another was Mary, who married Samuel Jennings, and is living, a widow. A third was Hannah, who married Joseph W. Chase, and is living. There are sons of David Cattel, who are living, but the names I do not know. Jonas was another son of Jonas Cattel; he is living on Timber creek. Amos was the youngest son of old Jonas Cattel; he is now living on Woodbury creek, in New Jersey. I do not know that I remember any other children of old Jonas Cattel. The 3d sister of Jeremiah Carter was Joanna, who married, 1st, Henry Paxton, and had four children by him. 1st. Elizabeth, who married Isaac Pederick, and died about a year and a half ago, and left children, whose names I do not know. 2d, Sarah, who died unmarried and without issue, nine or ten years ago. 3d, John Paxton, who is living in New Jersey, in the county house. 4th, Hannah, who died in her mother's lifetime, a child. Joanna Paxton married, 2d, James Marridge, and had no children by him; she married, 3d, John Sears, and had no children by him; she died fifteen years ago this fall. There were no other children of old John Carter that I remember.

her
CATHERINE ⋈ DILKS.
mark.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this nineteenth of August, 1829, before me.

T. I. WHARTON, *Master*.

JOHN PAXTON, of Gloucester county, in the State of New Jersey,

aged about fifty-six years, being duly sworn on the part of the petitioners, deposes as follows:

I was born blind, and have never had the use of my eyes, and have never been able to follow any business in consequence of that. I never knew Matthias Aspden, but have often heard my mother tell of him; my mother was Joanna Carter; she was daughter of John Carter; I cannot tell whose son he was; he came from old England a boy; he married Sarah Packer, who was sister of Rebecca Aspden, whose maiden name was Packer. My grandfather, John Carter, had by Sarah Packer nine children. 1st, Martha, who died a great many years ago; her first husband was William Nicholson, by whom she had two children, William and Susannah, who both died many years ago, unmarried and without issue; her second husband was Edward Taylor, by whom she had several children, but only one that lived, whose name was Mercy, who married Philip Shew, who resided at Pottsgrove. I have not heard of her death. 2d, John was the second child of John Carter. He has been dead seven and thirty years this December. He married one Priscilla Williams, and left two sons and three daughters, who survived him. The first was Elvery, who married Cornelius McDermot, and died a great many years ago, leaving five children. 1st, Martha, who died in childhood. 2d, Priscilla, who I believe is living. 3d, Nancy. 4th, Cornelius, who died a little boy. 5th, John, who is living as far as I know. I do not know much of the descendants of Elvery McDermot. The next child of John Carter the 2d, was Sarah, who married Isaac Hewit, and I think is living. The third was Joanna, who married John Wallender. She has been dead many years. She left two sons and one daughter. I do not know what became of them. The next child of John Carter the 2d, was Samuel, who died many years ago, leaving four children, Aaron, Jonathan, Joseph. I do not remember the name of the fourth. I believe it was Jesse. He was drowned. The other three I think are living. The oldest child of John Carter the 2d, was John, who died many years ago, during the revolutionary war, leaving four daughters, Priscilla, Katy, Mary, and Nancy. I do not know much about them. Another child of John Carter the 2d, was Jonathan, who died during the revolution, leaving no children. Edward was the next child of John Carter the 2d. He died many years ago, leaving a son and a daughter, James and Sarah. I do not know what became of James. Sarah married Samuel Watson, and is now living, I believe. There were two other children of John Carter the 2d, Israel and Rebecca, who died young, without issue. The next child of John Carter, by Sarah Packer, was Samuel, who died many years ago, leaving two children, Samuel and Christiana. Samuel died young; I do not know what became of Christiana. I think there were other children, who died. Jeremiah was another child of John and Sarah Carter. He died many years ago, leaving four children by his first marriage, three of whom died young of the small pox. The other was Amy, who married Nathan Ward, and left Amy, Sarah, and Hannah, all living. I believe they are married. Hannah married Samuel Easely. I do not know who the others mar-

ried. Jeremiah had three children by his second wife. 1st, John, who died twelve years ago last winter, unmarried. 2d, Sarah, who married Abel Pearce, and died, I suppose, about ten years ago, leaving three daughters, Ann, Elizabeth, and another, who I believe are living. 3d, Ann, who is living, and married one George McKean. Nathan was another child of John and Sarah Carter. He was never married, and died many years ago. Daniel was another child of John and Sarah Carter. He has been dead nearly forty years last April. He had nine children. 1st, Nathan, who went to the new countries. I do'nt know whether he is living or not. He went away seven or eight years ago. I never heard of his death. 2d, Bartholomew, who is living. He resides on Manto creek. 3d, Daniel, who is now living. 4th, John, who went to the new countries. I have not heard of his death. 5th, Jeremiah, who I believe is still living at Barnsboro' in New Jersey. 6th, Martha, who is living. She married John Buckle. 7th, Elizabeth, married John Turner, and is living in Gloucester county. 8th, Ann, the widow of Andrew Sweaton. She is now living. 9th, Mary, who died young, unmarried. The next child of John Carter and Sarah Packer was Sarah, who married, first, John Stevenson, and left a child, John, who is living I believe. She married, second, Jonas Cattel, and left by him, 1st, Uriah. I believe him to be living in Gloucester county. 2d, David, who died five years ago this fall; left, 1st, Jonas. 2d, Joseph. 3d, Isaac. 4th, William, who are all living, I believe. He also left three daughters. 1st, Sarah, who married Ellis Parker, and is living. 2d, Mary, who married Samuel Jennings, and I believe is living. 3d, Hannah, who is living; I don't know if married. Sarah, the wife of Jonas Cattel, died many years ago. Old John Carter, by Sarah Packer, had also my mother, Joanna, who died fourteen years ago this next October. She married, first, Henry Paxton and had four children. 1st, Elizabeth, who died last July a year. She married Isaac Pederick, and left six children, Isaac, Samuel, Joanna, Henry, Thomas, and Joseph; they are all living and of full age. Joanna married, Joseph Richards and is living in Gloucester county. 2d. My mother's second child was Sarah, who died unmarried, and without children, about eleven years ago. 3d, Hannah, who died young many years ago, without children. 4th, John, myself. My mother had no children by her second or third marriage. She married, 2d, James Marridge, and 3d, John Sears. The ninth child of old John Carter and Sarah Packer was Rebecca, who died under age and unmarried. Old Jonas Cattel left, besides Uriah and David, a son named Nathan, who died five years ago last April, leaving one child named Nathan, who is living in Gloucester county. There was also another son of old Jonas Cattel, named William, who died many years ago unmarried; then Amos, who is living in Gloucester county, and also Jonas, who is living in the same county. Jonas Cattel also left Sarah, who died many years ago unmarried. 2d, Hannah, who died many years ago unmarried. 3d, Amy, who married Judah Heritage, and died fifteen years ago this fall, leaving, 1st, Elijah, who is living in

aged about fifty-six years, being duly sworn on the part of the petitioners, deposes as follows:

I was born blind, and have never had the use of my eyes, and have never been able to follow any business in consequence of that. I never knew Matthias Aspden, but have often heard my mother tell of him; my mother was Joanna Carter; she was daughter of John Carter; I cannot tell whose son he was; he came from old England a boy; he married Sarah Packer, who was sister of Rebecca Aspden, whose maiden name was Packer. My grandfather, John Carter, had by Sarah Packer nine children. 1st, Martha, who died a great many years ago; her first husband was William Nicholson, by whom she had two children, William and Susannah, who both died many years ago, unmarried and without issue; her second husband was Edward Taylor, by whom she had several children, but only one that lived, whose name was Mercy, who married Philip Shew, who resided at Pottsgrove. I have not heard of her death. 2d, John was the second child of John Carter. He has been dead seven and thirty years this December. He married one Priscilla Williams, and left two sons and three daughters, who survived him. The first was Elvery, who married Cornelius McDermot, and died a great many years ago, leaving five children. 1st, Martha, who died in childhood. 2d, Priscilla, who I believe is living. 3d, Nancy. 4th, Cornelius, who died a little boy. 5th, John, who is living as far as I know. I do not know much of the descendants of Elvery McDermot. The next child of John Carter the 2d, was Sarah, who married Isaac Hewit, and I think is living. The third was Joanna, who married John Wallender. She has been dead many years. She left two sons and one daughter. I do not know what became of them. The next child of John Carter the 2d, was Samuel, who died many years ago, leaving four children, Aaron, Jonathan, Joseph. I do not remember the name of the fourth. I believe it was Jesse. He was drowned. The other three I think are living. The oldest child of John Carter the 2d, was John, who died many years ago, during the revolutionary war, leaving four daughters, Priscilla, Katy, Mary, and Nancy. I do not know much about them. Another child of John Carter the 2d, was Jonathan, who died during the revolution, leaving no children. Edward was the next child of John Carter the 2d. He died many years ago, leaving a son and a daughter, James and Sarah. I do not know what became of James. Sarah married Samuel Watson, and is now living, I believe. There were two other children of John Carter the 2d, Israel and Rebecca, who died young, without issue. The next child of John Carter, by Sarah Packer, was Samuel, who died many years ago, leaving two children, Samuel and Christiana. Samuel died young; I do not know what became of Christiana. I think there were other children, who died. Jeremiah was another child of John and Sarah Carter. He died many years ago, leaving four children by his first marriage, three of whom died young of the small pox. The other was Amy, who married Nathan Ward, and left Amy, Sarah, and Hannah, all living. I believe they are married. Hannah married Samuel Easely. I do not know who the others mar-

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ried. Jeremiah had three children by his second wife. 1st, John, who died twelve years ago last winter, unmarried. 2d, Sarah, who married Abel Pearce, and died, I suppose, about ten years ago, leaving three daughters, Ann, Elizabeth, and another, who I believe are living. 3d, Ann, who is living, and married one George McKean. Nathan was another child of John and Sarah Carter. He was never married, and died many years ago. Daniel was another child of John and Sarah Carter. He has been dead nearly forty years last April. He had nine children. 1st, Nathan, who went to the new countries. I do'nt know whether he is living or not. He went away seven or eight years ago. I never heard of his death. 2d, Bartholomew, who is living. He resides on Manto creek. 3d, Daniel, who is now living. 4th, John, who went to the new countries. I have not heard of his death. 5th, Jeremiah, who I believe is still living at Barnsboro' in New Jersey. 6th, Martha, who is living. She married John Buckle. 7th, Elizabeth, married John Turner, and is living in Gloucester county. 8th, Ann, the widow of Andrew Sweaton. She is now living. 9th, Mary, who died young, unmarried. The next child of John Carter and Sarah Packer was Sarah, who married, first, John Stevenson, and left a child, John, who is living I believe. She married, second, Jonas Cattel, and left by him, 1st, Uriah. I believe him to be living in Gloucester county. 2d, David, who died five years ago this fall; left, 1st, Jonas. 2d, Joseph. 3d, Isaac. 4th, William, who are all living, I believe. He also left three daughters. 1st, Sarah, who married Ellis Parker, and is living. 2d, Mary, who married Samuel Jennings, and I believe is living. 3d, Hannah, who is living; I don't know if married. Sarah, the wife of Jonas Cattel, died many years ago. Old John Carter, by Sarah Packer, had also my mother, Joanna, who died fourteen years ago this next October. She married, first, Henry Paxton and had four children. 1st, Elizabeth, who died last July a year. She married Isaac Pederick, and left six children, Isaac, Samuel, Joanna, Henry, Thomas, and Joseph; they are all living and of full age. Joanna married, Joseph Richards and is living in Gloucester county. 2d. My mother's second child was Sarah, who died unmarried, and without children, about eleven years ago. 3d, Hannah, who died young many years ago, without children. 4th, John, myself. My mother had no children by her second or third marriage. She married, 2d, James Marridge, and 3d, John Sears. The ninth child of old John Carter and Sarah Packer was Rebecca, who died under age and unmarried. Old Jonas Cattel left, besides Uriah and David, a son named Nathan, who died five years ago last April, leaving one child named Nathan, who is living in Gloucester county. There was also another son of old Jonas Cattel, named William, who died many years ago unmarried; then Amos, who is living in Gloucester county, and also Jonas, who is living in the same county. Jonas Cattel also left Sarah, who died many years ago unmarried. 2d, Hannah, who died many years ago unmarried. 3d, Amy, who married Judah Heritage, and died fifteen years ago this fall, leaving, 1st, Elijah, who is living in

Gloucester county, and of age. 2d, Amos; I never heard of his death. 3d, Eli; I believe he is living. 4th, Mark, who is also living, I believe. Jonas Cattel also left a daughter named Martha, who died unmarried.

his
JOHN X PAXTON.
mark.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, the 19th of August, 1829, before me.

T. I. WHARTON, *Master*.

ANN MARTER, of Camden, in the county of Gloucester and State of New Jersey, widow, aged fifty-three years and upwards, being duly affirmed on the part of the petitioners, deposes as follows:

I knew William Hinchman, but I did not know Ann Hartley; I do not know who his father was. His wife was named Jane; I mean the wife of William Hinchman; he died four years ago last February, (1830,) in the fore part of February; he left children, viz., Ann, who married John Brown; she is living; John Brown is dead more than five years ago. The next child of William Hinchman was Joseph; he is now living in Gloucester county, New Jersey, aged upwards of forty years. Rachel was next child; she married Benjamin Wiltse; she died four years ago last February; her father died only a few days before her; she left six children, Edmund, Emmeline, Benjamin, Elizabeth, Ann, Isaac, all living and unmarried, and all minors; Benjamin Wiltse, her husband, is also living. Barsheba was the next child of William Hinchman; she is now living and married to Benjamin Wiltse, who had formerly married her sister Rachel; she had been previously married to Samuel Forest, who died upwards of ten years ago; she has one child by him, who is living, named Jane Ann Forest. Mary was the next child of William Hinchman; she is living, and married to David Ireland; she resides in Philadelphia. Barsheba Wiltse resides in Camden with her husband. Thomas Hinchman was the next child of William; he is living, and resides in Gloucester county, New Jersey. Martha Hinchman was the next child of William; she is living and single in Camden. These are all the children of William Hinchman. I do not remember the name of the mother of William Hinchman.

ANN MARTER.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this first day of March, A. D. 1830, before me.

T. I. WHARTON, *Master*.

PHŒBE GIBBS, of Woodbury, in the county of Gloucester, in the State of New Jersey, single woman, aged about forty years, being duly affirmed, deposes as follows, to wit:

I did not personally know James Hartley, son of Benjamin; he died, I suppose, more than five years ago; I believe he left four children; I only knew two of them; their names were Thomas and Elizabeth;

Thomas is living, I believe, in Philadelphia; Elizabeth married Daniel Fortner, and died about five years ago, having had one child, which died about four weeks before her; Daniel Fortner, her husband, is living in Haddonfield, New Jersey; these two are the only children of James Hartley that I was acquainted [with;] I do not know if James Hartley had any brothers or sisters.

PHŒBE GIBBS.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this first day of March, A. D. 1830, before me.

T. I. WHARTON, *Master*.

THOMAS ASPDEN, at present residing at Lower Merion, in the county of Montgomery and State of Pennsylvania, mechanic, aged about forty-four years, being duly sworn on behalf of John Aspden, deposes as follows:

My father's name is John Aspden. He resides at Rawtenstall, in Lancashire, in England. He is the son of Thomas Aspden, who lived near Harwood, also in Lancashire. He had the following children: John, Nathaniel, Matthias, Andrew, and George, and one daughter, Mary, who is dead. The father of Thomas Aspden, my grandfather, was named William. I had no knowledge of him. He died before I had any knowledge of him. He died before the father of old Matthias, the father of the testator. He resided, as I have understood, in the neighborhood of Symonstone, where his ancestors generally lived. This is also in Lancashire. I almost think that the father of my great grandfather was named Nathaniel, but I am not certain. My great grandfather had a number of brothers. I do not recollect the names of all of them. He had one named Matthias, one named Richard, and one Nathaniel. I do not remember the names of the whole. Matthias, the brother, had one child that was laid to his charge, before he came to this country, born before marriage. Her name was Mary Watson. He had no other children by the first marriage. He married to his second wife the widow of Roger Hartley. I think the christian name was Roger. He was not married again. He married Mary Watson in England, and had previously a daughter whose name was Mary Watson, but he was pleased to call her Mary Aspden. She married one Captain Henry Harrison. This Matthias Aspden was the father of the testator. My father was the eldest of his brothers or sisters. My grandfather was the oldest child, I believe, of my great grandfather, or was the oldest son. He had a sister Mary, who was in this country with old Matthias. My great grandfather was not, I believe, the oldest of the brothers and sisters of that family. Richard was the oldest. He died at Minorca, without issue, that we could ever trace. A good deal of pains was taken to find it out, but without success.

Being cross examined, the witness says:

I know the facts of my father and grandfather and great grandfather

which I have stated from the copies of the registers. I have been credibly informed by my father that William was his grandfather. I have no other knowledge of the fact than from my father and the register. I have been informed for many years previous to the death of Matthias Aspden that William was his grandfather. I have known that Thomas was the eldest son ever since I had a knowledge of the family. It must have been twenty years at least. I believe that William was the son of Nathaniel, but am not positive as to that. My knowledge is derived only from my father, and other leading branches of the family. My grandfather died, I believe, about two years before the testator. I believe the testator died about the latter end of 1824. The branches of the family I speak of were my grandfather and some of my uncles. I have frequently heard told about the pedigree of the family many years ago, but I cannot name the precise time. It was in common conversation. I was personally acquainted with all my uncles. I have heard my uncle Matthias speak of it.

It is about three years and a half since I came to this country. I lived at a place called Haywood Bridge, about two miles from my father's residence. I followed machine making principally; and the last business I was connected with [was] brass and iron foundry, as well as machine making. I was principally a master workman in England, for about twelve or fourteen years there. I have a wife and two children. They are with me here. I came out on this business. I had some inclination of coming to this country previous to the death of the testator. I cannot positively say whether my father is pursuing a claim in England, or waiting it to be brought on. The expenses of proceeding in chancery there are so great that he has not money enough to prosecute a suit at large. I cannot say whether he has embarked in the cause, or waiting for the other party. He had made application before I came from England, but since then he has not informed me. I mean to say that by prosecuting at large that he had not money to compel the suit to be brought forward. The person prosecuting the suit in England is a daughter of old John Aspden, I suppose about a half-cousin to my father. It is what we call second cousins. We did not know much about the relationship. This old John Aspden is stated to be the son of Andrew. I do not know the names of that branch of the family, nor whose son Andrew was. I suppose it must be about twenty years since I first heard of Captain Henry Harrison. I heard it spoken of then in the conversation of my father and grandfather, about the pedigree of the family. I cannot tell anything about the family of Mary Watson, the wife of Matthias Aspden. I have some registers that state precisely where she lived. She was from somewhere about Padyham, about a few miles from Simonstone; I believe not more than five or six. I have seen an attested copy of the register of the birth of Mary Watson, daughter of Matthias. I think the name of the grandfather of the testator was Nathaniel, but I am not positive. I state it merely from memory. He had a brother Nathaniel. The family all spell their names Aspden. I believe it is always

written so by them. I have never seen the testator to my knowledge; I never saw old Matthias.

I believe my great grandfather was only married once. He must have died about middle age I suppose, from dying before the father of the testator. I suppose this from the will of Matthias, the elder. I have a copy of that. I can't state from my own knowledge who was the wife of my great grandfather. I have heard very little except about the males of the family. The pedigree of the family has not been talked over since the death of the testator many times. It was as much talked of before as since. I can't say I know as much of the pedigree in the female line as in the male, so far back. I have heard that the first wife of my grandfather was named West. I cannot state what the family name of his second wife was. I lived some years with my grandfather when he married his second wife. Her christian name was Betty. I have a deposition made by my father, which accompanied these papers; I have read it over once. I gave it to Mr. Broom after I had once perused it, and have not read it since. I believe Matthias, the testator, was born in Philadelphia; I learnt that from my father. I can't say where his father was married to Mrs. Hartley. I believe it was in this country. I believe it was about the time of the testator's death I heard this. I heard it from my father.

I can't tell the name of my father's solicitor. These papers were made up by Henry Hargrave. He is a solicitor at Blackburn, in Lancashire, about ten miles from my father's residence. My father paid the expense of his papers. My father's brothers are all living, to the best of my knowledge.

I wish to explain that I do not know positively that my father was older than his sister Mary. He is the oldest of the brothers, according as I have always heard stated.

THOMAS ASPDEN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, the twelfth day of March, A. D. 1830, before me.

T. I. WHARTON, *Master*.

JOHN ZANE, of the city of Philadelphia, house carpenter, aged sixty-one years and upwards, being duly affirmed on the part of certain petitioners, deposes as follows:

I knew Matthias Aspden, the testator. I mean that I have seen him. I was about nine years old when he came to Haddonfield to see my mother before he went to England, and then I saw him. I saw him also the last time he was in Philadelphia. I lived then at Woodbury, and came to Philadelphia on purpose to see him. I think it was about 1810. My mother was his half-sister. She died in 1803 or 1804. I knew Roger Hartley. I did not know his mother. I did not know Matthias Aspden's mother. Roger Hartley was brother to my mother. He was the oldest. Ann Hartley, who afterwards

married William Hinchman, was next to my mother. Benjamin Hartley was another. Rebecca Hartley, afterwards Kay. James Hartley who died without issue. These were children of Roger Hartley, and half-brothers and sisters of Matthias Aspden. Roger Hartley, the younger, left children. One was Thomas, another Peter; Rebecca, married one Doan. These were the children by his first wife, as I have always understood. He had, also, a son named Roger, by his first wife. By his second wife he had Edward, another child I think was Martha, and one named Barsheba. She married one Adams. I think his first name is Thomas. He was living when I heard of him last, and resides in the Western country. His wife, Barsheba, was living last summer when I heard of her. Roger Hartley, the third, lives somewhere in the Western country. Some years ago he lived in Bucks county. About twenty-five or thirty years ago he removed to the Western country. Rebecca Doan resides at Queen street, Upper Canada.

I knew Ann, the wife of John Scull. She was the daughter of William Hinchman, who married Ann Hartley. She lived on Timber creek, and previously had lived with my mother. Ann Scull is dead. John Scull is also dead. They left children, viz., Keziah, who died a young woman, unmarried and without children, between thirty and forty years ago. Joseph was the next child of Ann Scull; he was living about a year ago. Next was Ann; married John Shannon, a house carpenter; both were living about a year ago. Next is John; he is also living. Next is Rebecca, who married Thomas Stiles; both are living. Next Ruth, who married John Middleton; they were living about a year ago. I heard a report last Christmas that Ruth was dead, but I do not know that it is true. William is the next child of Ann Scull; he was also living the last time I heard of him. They all reside in the Western country, as I have heard and believe.

Roger Hartley, the father of Barsheba Adams, and of Edward Hartley, has been dead for twenty-five years and upwards.

JOHN ZANE.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to this eighteenth of March, 1830, before me,

T. I. WHARTON, *Master*.

JOHN KEEN, of Burlington county, in the State of New Jersey, barkeeper, aged about thirty-nine years, being duly sworn on behalf of certain petitioners, deposes as follows:

I knew John Hinchman, the son of Ann Hinchman. I do not know his father's name. I do not know his mother's maiden name. John Hinchman lived in Moorestown, Burlington county. He had a brother named James, who is dead. I never knew any of his sisters. As near as I can recollect, John Hinchman has been dead about twelve years. He left eight children that I knew. Hannah is the

oldest. She married, but I do not remember the name of her husband. She is living somewhere in Philadelphia county. Elizabeth was the next child of John Hinchman. She married Thomas Hollingshead, and is living near Moorestown. John is the next child. He is living on Rancocas creek, in New Jersey. Ann is the next. She is living, and I believe unmarried, in Pennsylvania, I believe somewhere in the neighborhood of her sister Hannah. Jacob, I think, is the next. He is living in Burlington county, near Moorestown. Rebecca is the next; she is living, I believe unmarried; I do not know exactly where, but believe in Pennsylvania. William Hinchman is the next; he resides in Moorestown, and is here present. Catherine is the next; she is living, unmarried I believe, in Pennsylvania. These are all that I knew. There is no other within my knowledge.

JOHN KEEN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this eighteenth day of March, 1830, before me.

T. I. WHARTON, *Master*.

WILLIAM HINCHMAN, of Moorestown, in the county of Burlington, and State of New Jersey, carpenter, aged twenty-six years and upwards, being duly affirmed, deposes as follows:

Hannah, the daughter of John Hinchman, is my sister. She married Joseph White, and resides near Holmesburg, in the county of Philadelphia. My sister Ann is unmarried, and resides at present in Burlington county. My sister Rebecca is living, and unmarried, in Burlington county. My sister Catharine is married to Joseph Heritage; both are living, and reside near Holmesburg. I have five sisters and two brothers. My sisters are Hannah, Ann, Catharine, Rebecca, and Elizabeth. My brothers are John and Jacob.

WILLIAM HINCHMAN.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this 18th day of March, A. D. 1830, before me.

T. I. WHARTON, *Master*.

JAMES H. MAXWELL, of Germantown, in the county of Philadelphia, apothecary, aged about forty years, being duly sworn on the part of certain petitioners, deposes as follows:

I know John Aspden; have been personally acquainted with him, as near as I can tell, twenty years and upwards. At present he resides at a place called Rottensdale, as I understand. It is in the county of Lancaster, in England. When I left England, nine years ago last May, he resided at New Church, a mile or two distant from Rottensdale. He is a machine maker. I should expect he must be at least sixty. He had children. There is one present in this room; his name is Thomas. He is the eldest son, to the best of my knowledge. I have seen and been in company with two or three of the brothers of Thomas Aspden. I do not know any thing of the ancestry of John

Aspden, the father of Thomas. I have been personally acquainted with Thomas Aspden for upwards of fifteen years. I came from Lancashire.

I know the handwriting of William Gray. I was a vestryman of the church of which he was the incumbent before he was made magistrate. The writing exhibited to me, purporting to be the signature of "William Gray, one of his majesty's justices of the peace, in and for the county of Lancaster," to the probate of a deposition signed Thomas Hardman, is, I am confident, the handwriting of the said William Gray. I think it is his handwriting; I am well acquainted with his signature. I cannot say that I know his handwriting generally.

Being cross examined, the witness says: I have seen William Gray write. I have been witness to marriages, baptisms, and burials in his presence scores of times, and have frequently seen him write his name on those occasions. I do not know anything of his being made a magistrate, except from what I have heard since I came to this country.

He was curate of the parish church of Haslingden, in the county of Lancaster. Dr. Whitaker was the vicar at that time. He resided at a place called Holmes' Chapel. I suppose about six or seven miles from Haslingden.

JAS. H. MAXWELL.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this eighteenth day of March, 1830, before me.

T. I. WHARTON, *Master*.

THOMAS ASPDEN being again called to prove that William Gray, before whom the probate of a deposition signed Thomas Hardman, was made, is an acting magistrate residing in England, deposes as follows:

I have known William Gray to be an officiating minister of the church for about fourteen years. He has been an acting magistrate for about five years, as near as I can recollect. I have seen divers warrants that have been signed by him, summonses, and other business of a magistrate. I have been several times in the sessions' room when he has been on the bench. On one occasion I have seen him called out to quell a mob that was breaking power looms. He acted as a magistrate on that occasion, and a number of the depredators were taken into custody. I have also had a warrant signed by him on my own occasion, for a person who had been committing some depredations on my property. I do not know of my own knowledge that he was an acting magistrate on the 3d of October, 1829, any more than from the documents. I have been in this country three years and a half, and have not been to England since. I resided within less than two miles of Haslingden, and knew him personally.

THOS. ASPDEN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 18th day of March, 1830, before me.

T. I. WHARTON, *Master*.

024.

EDMUND INGHAM, at present residing in the county of Philadelphia, aged thirty-one years, being duly sworn on behalf of John Aspden, deposes as follows:

I came from Rossendale, in Lancashire, in England; I came from there about the 17th or 18th of October last; I knew William Gray there; he is a preacher of the Gospel and a justice of the peace; I never saw him act as a justice of the peace; I never was before him; I have never been in court when he was acting; Mr. Gray was alive on the 3d of October last, 1829, and resided in Haslingden; never heard of his being removed from the office of justice of the peace, or losing it; I lived three miles from Mr. Gray's residence; never heard of his being left out of the commission.

No cross examination.

EDMUND INGHAM.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 25th day March, 1830, before me.

T. I. WHARTON,
Master.

JOHN CONSTANTINE, at present residing at Manayunk, in the county of Philadelphia, machine maker, aged about thirty-nine years, being duly sworn on behalf of John Aspden, deposes as follows:

I came from New Church, in Rossendale, in Lancashire, England; I think it will be three years next May since I arrived here; I left there in April; I knew Thomas Hardman, and am acquainted with his handwriting. The signature Thomas Hardman, to the deposition, purporting to be sworn to before William Gray on the 3d of October, 1829, is in the proper handwriting of Thomas Hardman; I knew William Gray particularly well; he was a minister and a magistrate; he was a magistrate in 1827; I have seen him act as a magistrate.

Being cross examined the witness says: I have seen him act as a magistrate in different cases where people were summoned before him, and they could not agree among themselves. I can't be positive as to the time in 1827; in the spring, between Christmas and summer, about eighteen months before I left England, I saw him act as a magistrate; I am quite sure of it; I was summoned before him as a witness. I must be mistaken in saying that I knew him to be a magistrate in 1827, because it will be only three years next 8th of May since I came here. I have not made a mistake in saying that I was summoned before him as a magistrate. Mr. Aspden never talked to me about the evidence I was to give; he asked me if I knew Thomas Hardman, and I said yes, but not about the evidence I was to give; he asked me if I would go to Philadelphia with him; he knew that I lived neighbor to Thomas Hardman; he never asked me about Mr. Gray being a magistrate. Thomas Hardman's father is a manufacturer of weaver's hills, part of the machinery. I suppose Thomas Hardman is about 22 or 23 years of age. When he did work any he assisted his father in

knitting these articles for weavers. His father brought him up chiefly to schooling; I mean he sent him to school; his father supported him; he has some property; a small estate; he lives in New Church.

To the best of my recollection it was about eighteen months before I left England, that I saw Mr. Gray act as a magistrate; it was as far back as 1825, to the best of my knowledge. I have seen Thomas Hardman write his name.

JOHN CONSTANTINE.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 25th day of March, 1830, before me.

T. I. WHARTON, *Master*.

PHILIP CARLAN, of the township of Moyamensing, in the county of Philadelphia, carter, aged about twenty-five years, a witness produced on behalf of Richard Aspell, being duly sworn, deposes as follows:

My mother's name was Catharine Carlan; she lived at the corner of Shippen and Sixth streets, in the township of Moyamensing, and died last January was a year or thereabouts. I have heard her say that she was brought up in the parish of Street, in the county of Westmeath, along with Mr. Robert Aspell, of Westmeath, in Ireland, in the neighborhood of Robert Aspell. I have heard her say that she heard him say that he wondered how his brother Matt. was coming on in America. I have likewise heard her say that this Mr. Aspell, this Robert Aspell, came from Scotland about the time of the battle of the Boyne. I have heard her say that she was well acquainted with young Matthias Aspell, and had spoke to him often; that she asked him one day in particular, when she met him in the street, who he was going to leave his property to, and he said he did not know. I have heard my mother say that she told him that he had a cousin here. The reply he made was, that he was glad to hear it. I have heard my mother tell this Mr. Aspell here, (Richard Aspell,) that if he would go on to Ireland he could get any witnesses that were requisite; and he said that he had not the means to go there. I don't know what was the subject of their conversation, but I heard my mother ask this Mr. Aspell if he knew that this young Matthias Aspell was his cousin. I heard her tell him that he could obtain the necessary testimony from the minister of Borrowhill church, in the parish of Street. I heard her several times talking, but can't distinctly say what it was. I heard her say that she stopped this Mr. Aspell one day in the street, and asked him if he had got his fortune yet; he said no, and she said it was there for him. I cannot tell whether my mother said Matthias Aspell or Aspden, but I understood it was Aspell.

Being cross examined the witness says: My mother was about fifty-nine when she died; she came to this country in the year 1793; arrived in New York. Don't know when the conversation took place between young Matthias Aspell and my mother. She told me of this first about three or four years ago. Can't recollect the time exactly. I have known this Richard Aspell since I have been a child. Never

heard her say where this Matthias Aspell lived. I never saw Matthias Aspell myself to my knowledge. I heard my mother say that this Robert Aspell had a brother named Matthias, who had a son named Matthias. She told this to us often; I mean my brothers and sisters. I have a younger brother named Edward, living in this city, and one sister named Catharine, single, aged about sixteen. I cannot tell whether Richard Aspel has any brothers or sisters. I have understood that he came from Ireland.

PHILIP CARLAN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this eighth day of April, 1830, before me.

T. I. WHARTON,
Master.

PRUDENCE BERRYMAN, of the city of Philadelphia, widow, aged eighty-seven years and upwards, being duly affirmed, deposes as follows:

I knew Rhoda Packer, who married my uncle George Hammitt; they are both dead; she died sixty years ago and upwards, and he more than thirty; they had twelve children, viz., 1st, Samuel, he is dead; he had a daughter named Sybilla; she married John Pricket, and is now living in New York State, I believe; he is also living. Jane was another child of Samuel; she married Caleb Bickham; I believe they are both dead; I have understood that she left two children. William was another child of Samuel; he has been gone these thirty-nine years; he went to the western country, and has not been heard of since; he was a single man when he went. Sarah, another daughter of Samuel, married John Berryman, my husband's brother; they are both dead, and left only one child named Rachel, who married 1st, Jacob Kensell, and after his death another, who is now also dead; she is now living, and present at this examination, calling herself Glasgow. The next child of Rhoda Hammitt was Daniel, who died without children more than sixty years ago. The next child of Rhoda Hammitt was a daughter, Theodosia, who married Thomas Mannery; she is dead; he has been long absent; she had but one daughter living at the last I heard of her; I do not know her name; she is married, but I do not know to whom; she was living the last I heard of her. The next child of Rhoda Hammitt was Rhoda, who married William Whitton; they are both dead, and left one child; Mary, who married William Haines; I believe they are both alive. The next child of Rhoda Hammitt was Rebecca, who died many years ago, unmarried. The next was Thomas, who died more than twenty years ago; he married, and his wife is dead; they had but one child, named Rachel Hammitt; I have heard that she is dead. The next child of Rhoda Hammitt was Benjamin, who died more than twenty years ago; I think he left children, but do not know whether three or five; I do not know whether his wife is dead; Joseph was the next child of Rhoda Hammitt; he

died more than twenty years ago, I think, leaving children; I do not know how many; there is one residing in Philadelphia, named John; I do not know the name of any other child; his wife's name was Leah. The next child of Rhoda Hammitt was Sarah, who married John Wollahan; they are both dead; after the death of Wollahan, she married an Alberson; I do not know if he is dead; there were several children of Wollahan; I don't know if she had children by Alberson. The next child of Rhoda Hammitt was George; he was between Samuel and Daniel; he and his wife are both dead; he had children; 1st, Daniel, who has gone to some part of the West; he had children, and I do not know whether he is living or dead; 2d, Kezia, who married one Vickers; she is dead, leaving children; I do not know their names; 3d, Mary, I think she is living unmarried in this city; 4th, Rebecca, who married Norton; I do not know if she is living or dead; I think he left but four children living. Rhoda Hammitt had another son named John; he is dead; his widow is living; her name is Rachel; he left several children; I do not recollect their names; Elias was the youngest son of Rhoda Hammitt; he died more than thirty years ago, leaving one child by his first wife, and several by his last; whether they are living or dead I do not know.

I knew the mother of Rhoda Packer, who married George Hammitt; I do not know her maiden name, her christian name was Rebecca. Rhoda Packer had two brothers that I knew, Samuel and Daniel Packer; and sisters, Martha, Rebecca, and a third, whose name I do not know; Rebecca married a Hartley for her first husband.

P. BERRYMAN.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this eighth day of April, 1830, before me.

THOMAS I. WHARTON,
Master.

JOSHUA MIDDLETON, of the city of Philadelphia, house carpenter, aged about forty-two years, being duly affirmed on the part of certain of the petitioners, deposes as follows:

I know Anne, the daughter of Elias Hammitt; she is my first cousin; she married Michael Rhinehart, of the Northern Liberties of the city of Philadelphia; his name is Michael, not Charles, as stated in the evidence of Rachel Hammitt, one of the witnesses in this case; they, viz., Michael Rhinehart and Ann Rhinehart, are both living.

JOSHUA MIDDLETON.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, the eighth day of August, A. D. 1831, before me.

T. I. WHARTON, *Master*.

JACOB WOLOHAN, of the county of Burlington, in the State of New Jersey, farmer, aged forty-eight years and upwards, being duly sworn on the part of certain of the petitioners, deposes as follows:

I know John Richards; he is here present; he has but one brother, whose name is William, and no sister that I know of. Their father's name was John Richards; he married Rachel Hammitt, the daughter of Thomas Hammitt, my uncle, who was the son of George Hammitt, my grandfather, who married Rhoda Packer. Rhoda Packer was the daughter of Philip Packer, as I have always heard and believe.

I know Hannah Cattel, who is now here; Hannah Chase; her father's name was David; he married Mary Williams. Mrs. Chase's sisters were Sarah and Mary, and she had several brothers, namely, Jonas, Joseph, Isaac, William, and David, who died young. I don't know whether the others are living or dead.

JACOB WOLOHAN.

Being re-examined the deponent says: I am the brother of John Wolohan, the son of John Wolohan who married Sarah Hammitt. My brother John died in March, 1829, leaving several children, viz., Joseph, who is living and here present; 2d, Elwood, who is also living and present; 3d, John, also living; 4th, Morgan, also living; 5th, Hamilton, also living; 6th, Elizabeth, also living, and married to Jacob Benloe; 7th, Mariamne, also living, and unmarried, under age. There was another named Sarah, who died a small child, four or five years ago. These are all the children that I know of. My youngest sister, Mercy, died about twelve or thirteen years ago; she married, first, Isaac Hillman, and by him had four children; 1st, Ellis, who is living; 2d, Mariamne, also living and married to Samuel Sloan, who is also living; 3d, Amy, who is also living and unmarried; 4th, Martha, also living and unmarried. My sister Mercy married, secondly, John Mull, a shoemaker, who died at Columbia on the Susquehanna, before her; she had by him one child named Emmeline, who is living, and will be sixteen next March; she is unmarried. My sister Amy married, first, Joseph Hopper, who died many years ago; she had by him two children; 1st, Rebecca, who married William Wolf, who is living; she is dead, leaving two children, viz., William and Joseph, both under age; 2d, John, who died several years ago, unmarried and without issue. My sister Amy married, secondly, Isaac Ivens, who died many years ago; by him she had one daughter named Amy, who died nine or ten years ago unmarried. My sister Amy died in December, 1829. I had two brothers, Charles and Elias, who died several years ago, unmarried and without issue.

I knew Rhoda Duffield, who married James Reynolds; she died rather more than a year ago; they were living in Front, below Almond street, at the time of her death; she left several children whose names I do not know. James Reynolds I believe is living.

JACOB WOLOHAN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 10th day of August, 1831, before me.

T. I. WHARTON, *Master*.

SAMUEL W. CLEMENT, of the district of Southwark, in the county of Philadelphia, inn-keeper, aged about forty-three years, being duly affirmed on the part of certain of the petitioners, deposes as follows:

I know Mrs. Hannah Chase; we were brought up in the same neighborhood; her name before marriage was Hannah Cattel; her father was David Cattel; he married Mary Williams, as I have heard and believe. Their children were, 1st, Sarah, who is living, and the widow of Ellis Parker; 2d, Mary, also living, and widow of Samuel Jennings; 3d, Jonas Cattel, who is also I believe living; 4th, Hannah Chase, also living. Her husband's name is Joseph W. Chase, as I believe; 5th, Isaac, who I have understood is dead three or four years; I believe he was never married; I understood that he died in the Pennsylvania Hospital; 6th, William, who has been absent for two or three years, I believe, but I cannot be positive as to the time; he followed the water; he was a shallop-man; 7th, Joseph, who I believe is living; William was unmarried. I know of no other children; I have always understood that David, the father of these children, was the son of Jonas Cattel; I do not know whom Jonas Cattel married, but I always understood that they were connected with the Carter family.

SAMUEL W. CLEMENT.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this tenth day of August, 1831, before me.

T. I. WHARTON, *Master*.

RHODA POWELL, of the city of Philadelphia, widow, aged fifty years and upwards, being duly affirmed on the part of certain of the petitioners, deposes as follows:

I know Mrs. Hannah Chase; I have known her since she was a child; her name was Hannah Cattel; she was daughter of David Cattel, whose father's name was, I believe, Jonas; David Cattel had several children, viz: Sarah, who is living, widow of one Parker, Ellis Parker; 2d, Mary, living, widow of Samuel Jennings; 3d, Jonas, also living; 4th, Hannah Chase, also living, and here present; 5th, William, who I believe is deceased; I have not heard of him for five or six years; he was never married; 6th, Isaac, who I believe is deceased; he was never married to my knowledge; 7th, Joseph, who is living. These are all the children that I know; John Wolohan was my brother; his father's name was John, who married Sarah Hammitt; John, my brother, died about two years ago last March; he left, 1st, Joseph, who is living; 2d, Elwood, also living; 3d, John, also living; 4th, Eliza, also living, and married to Jacob Benloe; 5th, Hamilton, also living; 6th, Susan, living and unmarried, and under age; 7th, Morgan also living; 8th, Emmeline, also living and unmarried.

RHODA POWELL.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this tenth day of August, A D. 1831, before me..

T. I. WHARTON, *Master*.

ELIZABETH HINCHMAN, of Moorestown, in the State of New Jersey, widow, aged about sixty-six years, being duly affirmed, deposes as follows:

The names of the children of John Hinchman are, 1st, Hannah, married to Joseph White, and living; 2d, Elizabeth, married to Thomas Hollinshed, also living; 3d, Ann, single, also living; 4th, John, living; 5th, Jacob, also living; 6th, Rebecca, single, also living; 7th, William, living; 8th, Catherine, married to Joseph Heritage; they are all living.

ELIZABETH HINCHMAN.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this sixteenth day of September, A. D. 1831, before me.

T. I. WHARTON, *Master*.

JAMES EDGAR, of the city of Philadelphia, carpenter, aged forty-eight years and upwards, being duly sworn, deposes as follows:

I knew Edward Packer; he was called Edward E. Packer; his mother's name was Barsheba; he resided in the city; he died about a year ago; he left children, John A. Packer, James, Maria D., Charles B., Anna, Margaret, and Edward E. Packer. I was made executor of his will.

JAMES EDGAR.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 16th day of September, A. D. 1831, before me.

T. I. WHARTON, *Master*.

HANNAH SOPHIA PACKER, of the city of Philadelphia, widow, aged about forty-two years, being duly sworn, deposes as follows:

The name of the father of Edward E. Packer was John Packer. His father's name was Samuel Jones Packer. Edward E. Packer died about two years ago, on the 23d of November, 1829. One of Edward Packer's brothers was named James. He died last winter. Two sisters, one named Martha, married to John Stewart; the other, Mary, married John Derrickson. The names of the children of Edward E. Packer are John A., Henry, James E., Maria B., Charles B., and Anna Margaret. Ellen died a little girl. The youngest is Edward E. Packer.

her
HANNAH SOPHIA ✕ PACKER.
mark.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 16th day of September, A. D. 1831, before me.

T. I. WHARTON, *Master*.

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, esquire, a citizen of the State of Pennsylvania, executor of the testament and last will of Matthias Aspden, esquire, late a citizen of the same State. } In equity.

The President of the United States, to the Rev. John Ashworth, of Blackburn Hundred, in the county of Lancaster, in England, and William Gray, of Haslingdon, in the county of Lancaster, now or late one of his majesty's justices of the peace for said county, esquires, or either of them, commissioners nominated on the part and behalf of John Aspden, and to the mayor, chief burgess, or other chief officer of Rawtonstall, in the county of Lancaster, or any master extraordinary in chancery other than the commissioner on the adverse part, commissioner nominated on the part and behalf of the parties claiming adversely to John Aspden, greeting:

Know ye, that, in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, full power and authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, in a certain action in equity therein depending, wherein the said Samuel Packer is complainant, and the said Henry Nixon, esquire, executor of the testament and last will of Matthias Aspden, esquire, is defendant, to call before you, at a certain day and place by you for that purpose to be appointed, all and every person and persons who may be named to you by the said John Aspden, and the parties claiming adversely to him, as witnesses in the said action; and then and there to examine them, on their respective oaths and affirmations, on certain interrogatories hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable John Marshall, chief justice of the Supreme Court of the United States, at Philadelphia, this seventeenth day of November, A. D. 1830, and in the fifty-fifth year of the independence of the said United States.

D. CALDWELL, *Clerk circuit court.*

In the circuit court of the United States of America, district of Pennvania.

SAMUEL PACKER, complainant,
vs.
HENRY NIXON, executor of the will of Matthias Aspden, defendant.

Interrogatories to be administered to witnesses to be produced, sworn or affirmed, and examined on the part of John Aspden, of Rawtonstall, in the county of Lancaster, in England, a claimant in the above cause.

First. Do you know the parties, complainant and defendant, in the title of these interrogatories named, or either, and which of them, and how long have you known them respectively?

Second. Do you know the said John Aspden; if yea, how long have you known him, and where has he hitherto resided, and where does he now reside?

Third. Do you know, or have you been credibly informed, and by

whom, who was the father, and grandfather, and great grandfather of the said John? If yea, name the same respectively, and whether or not the said John was the eldest son of his father; and whether or not said John's father and grandfather were or were not the eldest sons respectively of their respective fathers. Declare your whole knowledge herein, whether from general reputation or otherwise, specifying the source of such knowledge.

Fourth. Have you any further knowledge, by general reputation or otherwise, and state how, of the pedigree of the said John Aspden, and of Matthias, son of Matthias Aspden who lately died in London, or of either? If yea, state the same fully and at large.

Fifth. Have you ever received, or do you know of, any letter or letters from the said Matthias Aspden, making inquiries concerning his family in Lancaster county, in England? If yea, please to annex the same, and say whether the same are in his handwriting.

Sixth. Look upon the paper writings now produced and shown to you, (and which the commissioners will please to identify with their marks and signatures,) and say whether you did compare and examine the same with the register of any, and what, parish and place, book or books, entry or entries, or not? If yea, does the same contain a true copy of such register, book or books, entry or entries, with which you so examined them, or not? Declare.

Seventh. Had you any correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid? If yea, please to annex copies of your letters, stating how they were respectively sent, and the letter or letters from said Matthias to you.

Lastly. Do you know of any other matter or thing which may be of importance to the said John Aspden in this suit? If yea, relate the same fully and at large, as if you had been thereunto particularly interrogated. JAMES M. BROOM, *for John Aspden*.

Cross interrogatories to be administered to the witnesses who may be examined upon interrogatories on the part of John Aspden, of Rawtonstall, in the county of Lancaster, in England, a claimant in the above cause.

Interrogatory 1. If you answer affirmatively to the claimants' second interrogatory, state how the said Aspden spells his surname; how long he has spelt it so; how his father and grandfather respectively spelt it.

Interrogatory 2. If you answer affirmatively to the claimant's third interrogatory, state when you first acquired your knowledge, when, and from whom.

Interrogatory 3. If you answer affirmatively to the claimant's fifth interrogatory, state where you received the letter or letters to which you depose; from whom you received it or them, and at what time or times. State whether you know of any reply being sent to the said letters, when, and by whom.

Interrogatory 4. If you answer affirmatively to the claimant's seventh interrogatory, state whether you have any letters from Matthias Aspden acknowledging the receipt of any letter from you of which

you may have exhibited a copy or copies. If you have any such letter or letters, annex them.

Interrogatory 5. Have you advised with any person concerning the answer or answers that you were to give under this commission; if aye, with whom particularly; have you named all such person or persons; have you been previously examined under oath, or otherwise, upon the subject of the claimant's interrogatories? If aye, state when, where, and by whom. Have you any promise or agreement from or with the claimant, John Aspden, or any one else, in regard to compensation or participation in what he may recover in this cause; do you know of any such promise or agreement by the said John, or any one else in his behalf, with any other person or persons? If aye, state.

Interrogatory 6. What is your profession or calling; what your age; where were you born; what is your place of residence; how long have you lived there; in what part of the said place is your habitation, naming street, number, or other particular designation of the house in which you dwell; where did you last dwell before you came to your present residence; what is your affinity or relationship to the said John Aspden?

HOR. BINNEY,
In behalf of G. Harrison, &c.

True copies—13th November, 1830.

D. CALDWELL,
Clerk of circuit court.

Depositions of witnesses,

Produced, sworn, (or affirmed,) and examined, on the seventeenth day of January, in the year of our Lord one thousand eight hundred and thirty-one, and by adjournment on the eighteenth day of the same month, January, at the house of George Pickup, known by the name or sign of the Commercial Inn, within the market town of Haslingdon, in the parish of Whalley, in the county of Lancaster, in that part of the United Kingdom of Great Britain and Ireland which is called England, by virtue of a commission issued out of the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, to us, in the manner therein set forth, directed for the examination of witnesses, in a certain cause depending in the said court, wherein Samuel Packer is complainant, and Henry Nixon, esquire, executor of the testament and last will of Matthias Aspden, esquire, is defendant.

Richard Chippindale, of Henfield, in the township of Clayton le Moors, in the parish of Whalley, in the said county of Lancaster, laborer, aged eighty-two years, being produced, sworn, and examined on behalf of the claimant, John Aspden, deposeth as follows:

To the first interrogatory on the part of the said claimant he deposeth as follows: That he doth not know the parties, complainant or defendant, in the title of the interrogatories named, or either of them.

To the second interrogatory on the part of the said claimant he deposeth as follows: That he knows the said John Aspden, and has

known him since he was a lad of a few years of age, at which time he lived with his father, Thomas Aspden, who was then a clogger, at Blackburn, in the county of Lancaster, but who had shortly before lived at a place called Cliff, within Great Harwood, which is about four miles from Blackburn aforesaid, and that when he lived at Cliff aforesaid, the said Thomas Aspden was both a clogger and ale-house keeper, and kept a house known by the sign of the Clog. That at the time the said Thomas Aspden lived in Blackburn, this deponent drove coal horses, which carried coals to Blackburn and other places, and that he frequently took clogs for different people living near Henburn Bridge, which is about five or six miles from Blackburn, (and where this deponent then lived,) backwards and forwards, to and from the shop of the said Thomas Aspden, at which time he well remembers the said John Aspden living with his father; that the deponent remembers the said Thomas Aspden removing from Blackburn to Rochdale, a town about eighteen or twenty miles distant from Blackburn, and situate in the same county; and that his son, the said John Aspden, removed with him; and that the said John Aspden has resided for many years in the Forest of Rossendale, which is about eight or nine miles from Rochdale, and six or seven from Henfield; and this deponent has heard, and believes, that the said John Aspden is now in America, but only knows the fact from general report.

To the third interrogatory on the part of the said claimant he deposeth as follows: That he knew the father of the said claimant, and both his first and second wife, very well, many years; that the said claimant's father's name was Thomas Aspden, and that he lived at Cliff, within Great Harwood aforesaid, and was an ale-house keeper and clogger, and that he married to his first wife one Mary West, who was the mother of the said claimant, and that the said claimant was their eldest son; but whether he was born at Cliff, and taken with them to Blackburn, or whether he was born in Blackburn, this deponent is unable to state; but he recollects them all living together at Blackburn some years, and afterwards removing to Rochale, and living some time there; that Thomas' first wife died at Rochdale, and he afterwards married one Alice Dugdale, of Whalley, but had no family by her; that the said Thomas Aspden returned from Rochdale into the township, Great Harwood, and farmed a place there called Top'oth-Moor, and afterwards lived at Lowerfold, at both which places he carried on the trade of a clogger; that he afterwards removed again to Blackburn, where he died about twelve years ago, and was buried at Great Harwood church; and this deponent recollects that he happened to be passing Great Harwood church at the time of the funeral of the said Thomas Aspden, and learnt at the time that the corpse was brought from Blackburn; and that this deponent also knew William Aspden, who was the grandfather of the said John Aspden, and the father of the said Thomas Aspden, which William Aspden lived and worked as a laborer at Mitten Hall; at the time this deponent was a lad of seven or eight years of age, and lived with his father at Henburn Bridge, near

Whalley, and about four miles and a half from Mitten Hall, who kept a pack of Galloways, which this deponent frequently drove past Mitten Hall to Chipping and other places; that William was a remarkably strong built man, and was noted for carrying great weights; and it is reported of him that, when he lived at Mitten Hall, he once carried eighteen bushels of black corn on his back two hundred and fifty-two yards for a wager; that he had a scar or cut on his right cheek, and that part of his right ear had been bitten off, and lads used to call him Crop, and provoke him to run after them; that William Aspden died at Lowerfold, within Great Harwood, and was buried at Great Harwood church about seventy years ago, at which time this deponent lived at Henburn Bridge aforesaid, which is about a mile and a half from Great Harwood; that the said Thomas Aspden was the eldest son of the said William Aspden, who had only one other son called Nathaniel, and he was younger than Thomas; and this deponent never knew the great grandfather of the said claimant, or whether the said William Aspden was the eldest son of his father; but this deponent never knew any elder brother of William.

To the fourth interrogatory on the part of the said claimant he deposeth as follows: That when he was a boy about ten or eleven years of age, and lived with his father at Henburn Bridge aforesaid, which is about three miles and a half from Whalley, he was in the habit of driving his horses with coal to Whalley every day, and sometimes three times a day; that he, at that period, *he* recollects Matthias Aspden being resident at Whalley for some time, but he cannot say how long; that he was living there for the benefit of his health, and got better before he left; that he lived near the church-yard, and had been abroad, and was called a merchant, and reported to be worth a deal of money; he wore a cocked hat, and had his hair tied, and ruffles to his hands, and wore three rings—two upon the fingers of his left hand and one on his right hand; he used to be thus dressed when he walked about Whalley street; he walked with a very handsome walking stick; it had silver let in below the gib, and again about the middle of the stick; that this deponent often saw Mr. Aspden whilst he was at Whalley, and he frequently took a glass of ale at Thomas Mercer's, who kept ale where Wigglesworth afterwards lived; that he used frequently to talk and joke with this deponent about coals—he having something to do, it was said, with coals at Newcastle; and that he had a boy with him, who was called young Aspden, who used to tease another boy called James Ashworth, (but who went by the bye-name of Bocking,) who used to carry coals with this deponent; young Aspden was a very rough boy, and used to ride the coal galloways; that Mr. Aspden, who came to Whalley, was [the] younger brother of William Aspden, the father of Thomas, and was so called and considered by everybody, though William was in much humbler circumstances; and this deponent also knew Nathaniel Aspden, the younger brother of the said Thomas Aspden, and Mary, his sister, who married George Dyson; and Margery, another sister; and Ann, another sister, who married Lawrence Walmsley; and this depo-

nent also knew the children of the said Thomas Aspden, that is to say, Mary, who married John Ashworth, and is dead; the said John Aspden the claimant, Andrew, Matthias, Nathaniel, (deceased,) and George; and this deponent further saith, that he hath no knowledge of Matthias Aspden, in the said fourth interrogatory stated to have lately died in London, unless he were the boy who was with the said Mr. Aspden at Whalley, and was called, and as this deponent believes was, in fact, his son.

To the fifth interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any letter or letters from Matthias Aspden, in this interrogatory named, making inquiries concerning his family in Lancaster county, in England.

To the sixth interrogatory on the part of the said claimant he deposeth as follows: That he is a stranger to the matters in the said sixth interrogatory inquired after, and knows nothing about the same.

To the seventh interrogatory on the part of the said claimant he deposeth as follows: That he has had no correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid.

To the last interrogatory on the part of the said claimant he deposeth as follows: That he doth not know of any other matter or thing which may be of importance to the said John Aspden in this suit.

To the first cross interrogatory he deposeth as follows: That he does not know how the said John Aspden spells his surname, or how long he has spelt it so, or how his father or grandfather respectively spelt it; but he knows that it is generally pronounced as if it was spelt Aspin.

To the second cross interrogatory he deposeth as follows: That he first acquired his knowledge of the said John Aspden, and his father and grandfather, by living in their neighborhood when he was a boy, at Henburn Bridge, near Great Harwood aforesaid, and associating with them and their family and relations.

To the third cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's fifth interrogatory.

To the fourth cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's seventh interrogatory.

To the fifth cross interrogatory he deposeth as follows: That he hath not advised with any person concerning the answer or answers that he was to give under this commission, but that he was waited upon at his own house by George Aspden, the younger brother of the said claimant, on Christmas day last, and also on the fifth day of January instant, by whom he was desired to attend at the Cross Axes public house at Great Harwood aforesaid, on Thursday, the sixth day of January instant; at which last mentioned place and time he was met by Mr. Henry Hargreaves, an attorney, who inquired what this deponent knew respecting the family of the said claimant, and took down some memorandums of the information which the deponent

then gave him, but he was not examined upon oath by the said Henry Hargreaves; that this deponent hath no promise or agreement from or with the claimant, John Aspden, or any one else, in regard to compensation or participation in what he may recover in this cause, and this deponent does not know of any such promise or agreement by the said John, or any one else on his behalf, with another person or persons.

To the sixth cross interrogatory he deposeth as follows: That he is, by calling, a laborer or gatherer of dung for Messrs. Fort & Brothers, of Oakenshaw, near Henfield aforesaid, calico printers; and will be eighty-three years of age on the first day of old March next; that he was born at Waddington, in the West Riding of the county of York; that his place of residence is at Henfield, in the township of Clayton-le-Moors, in the parish of Whalley, in the county of Lancaster; that he has lived there for the space of four years last past; that the place of his said habitation is not in any street, or known by any number or other particular designation, except that it adjoins to the west side of the turnpike road there; that before he came to his present residence, he last dwelt at the village of Tottleworth, within the township of Rushton and parish of Blackburn, in the said county of Lancaster, and that he has not any affinity or relationship to the said John Aspden.

The mark
RICHARD ✕ CHIPPENDALE.
of

Sworn before us—
JOHN ASHWORTH,
WILLIAM GRAY.

JOHN WOLSTENHOLME of Great Harwood aforesaid, shuttle maker, aged seventy-eight years, being produced, sworn, and examined on behalf of the claimant, John Aspden, deposeth as follows:

To the first interrogatory on the part of the said claimant he deposeth as follows: That he doth not know the parties, complainant or defendant, in the title of the interrogatories named, or either of them.

To the second interrogatory on the part of the said claimant he deposeth as follows: That he formerly knew the said John Aspden, but has not seen him for a number of years, and thinks he should not recollect him if he were now to see him; and recollects his being born at Cliff, within Great Harwood aforesaid, at the time his father kept ale there at the sign of the Clog, and was also a clogger; that he recollects Thomas, the father of John, the claimant, removing from Cliff to Blackburn aforesaid, with his family, and frequently saw the said Thomas Aspden and his family whilst residing in Blackburn, though he has no individual recollection of John, the claimant, in Blackburn; and that the said Thomas Aspden afterwards removed with his family from Blackburn aforesaid to Rochdale, a town eighteen or twenty miles distant from Blackburn; that this deponent has no particular recollection of the said John Aspden, the claimant, after the time of his leaving Cliff aforesaid, but he has heard that he has lived in Rossendale

aforesaid many years, and that he is now gone to America, but only knows these facts from general report.

To the third interrogatory on the part of the said claimant he deposeth as follows: That he knew the father of the said claimant, and recollects his marriage with his first wife, Mary West, who was the mother of the said claimant; that the claimant's father's name was Thomas Aspden, and that he lived at Cliff, within Great Harwood aforesaid, and was an ale-house keeper and clogger then. And that the said claimant was the eldest son of the said Thomas Aspden and Mary, his wife; that the said Thomas Aspden, after the death of his first wife, married one Alice Dugdale, of Whalley, but had no child by her to this deponent's knowledge; that this deponent recollects the said Thomas Aspden returning from Rochdale to a farm called Top-o'th'-Moor, within Great Harwood aforesaid, where he lived some years, and afterwards removed to Lowerfold, within Great Harwood aforesaid, and also farmed there under Lawrence Hindle, tanner, and at the same time followed the trade of a clogger; that the deponent does not know of his own knowledge whether the said Thomas Aspden died at Lowerfold in Great Harwood aforesaid, or at Blackburn, but he recollects that he was buried at Great Harwood church. And that this deponent also knew William Aspden, who was the grandfather of the said claimant, John Aspden, and the father of the said Thomas Aspden, and which said William Aspden lived at Lowerfold, in Great Harwood aforesaid, and died there and was buried at Great Harwood church about seventy years ago; that the deponent never remembers the said William Aspden living any where else but at Lowerfold, where he had a small farm, and used to sell bacon occasionally in the spring time, at which time the deponent lived, and has ever since lived, in the township of Great Harwood; that deponent has heard that the said William Aspden had a snip out of his ear, but never examined the ear himself, and only knows the fact from report; that the said Thomas Aspden was the eldest son of the said William Aspden; and this deponent never knew the great grandfather of the said claimant, or whether the said William Aspden was the eldest son of his father, but never heard tell to his knowledge of any elder brother that William had.

To the fourth interrogatory on the part of the claimant he deposeth as follows: That when he was a lad he recollects people talking of Matthias Aspden being over at Whalley, who was reported to be brother to the said William Aspden, though this deponent never saw the said Matthias Aspden; that he was reported to be a man of property, and to have been in America; and deponent thinks that Mary Aspden, the sister of the said Thomas Aspden, and niece of Matthias Aspden, returned with him to America when he left Whalley; and that the said Mary Aspden afterwards returned to England and married one Mr. Dyson. And this deponent also knew Nathaniel Aspden, the younger brother of the said Thomas Aspden, and Mary his said sister, and Margery another sister, and Ann, wife of Lawrence Walmsley. And this deponent also knew the children of the said Thomas Aspden,

viz., Mary, John Aspden, the claimant, Andrew, Matthias, Nathaniel, (dead,) and George. And this deponent further deposeth, that he knows nothing of Matthias Aspden, in the fourth interrogatory stated to have lately died in London, except that old folk used to say that when Matthias Aspden died, the Aspdens would come in for a large sum of money, as they were his next heirs.

To the fifth interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any letter or letters from Matthias Aspden, in this interrogatory named, making inquiries concerning his family in Lancaster county, in England.

To the sixth interrogatory on the part of the said claimant he deposeth as follows: That he is a stranger to the matters in the said sixth interrogatory inquired after, and knows nothing about the same.

To the seventh interrogatory on the part of the said claimant he deposeth as follows: That he has had no correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid.

To the last interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any other matter or thing which may be of importance to the said John Aspden in this suit.

To the first cross interrogatory he deposeth as follows: That he does not know how the said John Aspden spells his surname, or how long he has spelt it so, but he thinks that his father and grandfather, respectively, spelt it either "Aspden," or "Aspdin," although it is generally pronounced about Harwood as if it were spelt "Astin."

To the second cross interrogatory he deposeth as follows: That he first acquired his knowledge of the said John Aspden, and his father, and grandfather, by living near them at Great Harwood aforesaid, when he was a boy, and associated with them and their family and relations.

To the third cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's fifth interrogatory.

To the fourth cross interrogatory he deposeth as follow: That he hath not answered affirmatively to the claimant's seventh interrogatory.

To the fifth cross interrogatory he deposeth as follows: That he has not advised with any person concerning the answer or answers that he was to give under this commission; but on Thursday, the sixth day of January instant, he was called into the Cross Axes public house, at Great Harwood aforesaid, when he was questioned by Mr. Henry Hargreaves, attorney at law, as to what this deponent knew respecting the family of the said claimant, who took down some memorandums of the information which this deponent then gave him, but he was not examined upon oath by the said Henry Hargreaves; that this deponent hath no promise or agreement from or with the claimant, John Aspden, or any one else, in regard to compensation, or participation, in what he may recover in this cause; and this deponent does not know of any such promise or agreement by the said John, or any one else on his behalf, with any other person or persons.

To the sixth cross interrogatory he deposeth as follows: That he is by calling a shuttle maker, and will be seventy-nine years of age the first week in June; that he was born at Clayton-le-Moors, in the parish of Whalley, in the said county of Lancaster; that his place of residence is at Great Harwood aforesaid; that he has lived there for the space of seventeen years last past; that the place of his said habitation is in the principal street in what is called the lower town of the village of Great Harwood aforesaid, but the same is not known by any number or particular designation; that before he came to his present residence he last dwelt in another house, in the same village, about forty or fifty yards distant, and has continued to live in the said township of Great Harwood for the last seventy-seven years or thereabouts; and that he has not any affinity or relationship to the said John Aspden.

JOHN WOLSTANHOLME.

Sworn before us—
JOHN ASHWORTH,
WILLIAM GRAY.

JOHN CLAYTON, of Great Harwood aforesaid, weaver, aged seventy-eight years, being produced, sworn, and examined on behalf of the claimant, John Aspden, deposeth as follows:

To the first interrogatory on the part of the said claimant he deposeth as follows: That he doth not know the parties, complainant or defendant, in the title of the interrogatories named, or either of them.

To the second interrogatory on the part of the said claimant he deposeth as follows: That he knows the said John Aspden, and has known him since he was a child, well recollecting him living with his father, above sixty years ago, at the time he (the father) lived at Cliff, within Great Harwood aforesaid, and was an ale-house keeper and clogger; that the deponent recollects the said John Aspden afterwards living with his father in Blackburn, in which town the deponent remembers the father living in different places, and that he afterwards removed to Rochdale, but cannot say which of his family he took with him; and has understood that the said John Aspden has lived for many years, and up to the time of his going to America, in Rossendale, which is about ten miles distant from Great Harwood, the place where this deponent has always resided, and consequently the deponent has only been in the habit of seeing him latterly, when he has come over to Great Harwood; that the deponent hath been informed that the said John Aspden is now in America, but does not know the fact of his own knowledge.

To the third interrogatory on the part of the said claimant he deposeth as follows: That he knew the father of the said claimant, whose name was Thomas, and Mary, his first wife, very intimately, and recollects their keeping an ale-house at Cliff, within Great Harwood, and following the trade of a clogger at the same time; and remembers their leaving Cliff above sixty years ago, and removing to Blackburn, where he followed the trade of a clogger, and lived on the left hand

side of Church street. That they lived some years in Blackburn, and regularly clogged during that period for the deponent and his family, who frequently called when he went to Blackburn; that the said John Aspden, the claimant, was the eldest son of the said Thomas Aspden and Mary, his wife, who afterwards left Blackburn, and went to reside at Rochdale; that deponent recollects hearing of the death of Thomas' first wife, but cannot state where Thomas resided at the time, and that he afterwards married an aged woman of the name Dugdale, whom he should have had before he married his first wife; that the deponent remembers the said Thomas Aspden returning from Rochdale into the township of Great Harwood, and farming a place called Top-o'th'-Moor, just above the place where this deponent now lives, and afterwards living at a place called Lowerfold, in Great Harwood, at both which places he was a clogger; and that he either died at Lowerfold, or lived there very shortly before his death, for he recollects seeing him there when he was very unwell, and was buried at Great Harwood church. That this deponent also knew William Aspden, who was the grandfather of the said John Aspden, and the father of the said Thomas Aspden, and which said William Aspden, at the time the deponent knew him, lived at Lowerfold, in Great Harwood aforesaid, in the same house in which his son Thomas afterwards lived; that the deponent recollects the said William Aspden and Martha, his wife, perfectly well, and knows that the said William Aspden died at Lowerfold, in Great Harwood aforesaid, about seventy years ago, at which time this deponent lived at a place called Back of Bowley, which is within Great Harwood aforesaid, and that the said William Aspden was buried at Great Harwood church. That the said Thomas Aspden was the eldest son of the said William Aspden; and this deponent never knew, or was informed, who was the great grandfather of the said claimant, or whether the said William Aspden was the eldest son of his father; but this deponent never knew or heard of any elder brother that the said William had.

To the fourth interrogatory on the part of the said claimant he deposeth as follows: That above or about seventy years ago, the deponent remembers that Matthias Aspden, who people said had been in America, and was called William Aspden's brother, coming over to Great Harwood; and that the deponent saw him, and his hat was cocked up in three; and this deponent also knew Nathaniel Aspden, the younger brother of the said Thomas Aspden, and his three sisters; Mary, who married Mr. Dyson, a schoolmaster in Yorkshire,) Margery, and Ann, (who married Lawrence Walmsley;) and this deponent also knew the children of the said Thomas Aspden, viz., John Aspden, the claimant, Andrew, Matthias, Nathaniel, and George. And this deponent further saith, that he hath no knowledge of Matthias Aspden, in the said fourth interrogatory stated to have lately died in London.

To the fifth interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any letter or letters from

Matthias Aspden, mentioned in the interrogatory, making inquiries concerning his family in Lancaster county, in England.

To the sixth interrogatory on the part of the said claimant he deposeth as follows: That he is a stranger to the matters in the said sixth interrogatory inquired after, and knows nothing about the same.

To the seventh interrogatory on the part of the said claimant he deposeth as follows: That he has had no correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid.

To the last interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any other matter or thing of importance to the said John Aspden in this suit.

To the first cross interrogatory he deposeth as follows: That the said John Aspden spells his surname "Aspden," and that he has always spelt it so, and that his father and grandfather, respectively, spelt it in the same way.

To the second cross interrogatory he deposeth as follows: That he has acquired his knowledge of the said John Aspden, and his father, and grandfather, by living in Great Harwood all his life, and associating with them and their family and relations.

To the third cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's fifth interrogatory.

To the fourth cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's seventh interrogatory.

To the fifth cross interrogatory he deposeth as follows: That he hath not advised with any person concerning the answer or answers that he was to give under this commission; but on Thursday, the sixth day of January, instant, he was asked at the Cross Axes inn, in Harwood aforesaid, by Mr. Henry Hargreaves, an attorney, what he knew respecting the family of the said claimant, when some memorandums were made by the said Henry Hargreaves of the information which this deponent then gave him; but he was not examined on oath. That this deponent hath no promise or agreement from or with the claimant, John Aspden, or any one else, in regard to compensation or participation in what he may recover in this cause; and this deponent does not know of any such promise or agreement by the said John Aspden, or any one else on his behalf, with any other person or persons.

To the sixth cross interrogatory he deposeth as follows: That he is by calling a weaver, and was seventy-eight years of age on the fifteenth day of December last; that he was born at the aforesaid place called Back of Bowley, within the township of Great Harwood aforesaid; that his place of residence is in what is called the lower town of the village of Great Harwood aforesaid; that he has lived there for the space of eighteen years last past; that his place of habitation is in the main street in the lower town of Great Harwood aforesaid, but not known by any number or other particular designation, except that it is known to be his own property; that before he came to his present residence, he

last dwelt at Hindlefold, in the said township of Great Harwood; and that he has not any affinity or relationship to the said John Aspden.

JOHN CLAYTON.

Sworn before us—
JOHN ASHWORTH,
WILLIAM GRAY.

WILLIAM BENTLEY, of Great Harwood aforesaid, parish clerk, aged seventy years, being produced, sworn, and examined on behalf of the claimant, John Aspden, deposeth as follows:

To the first interrogatory on the part of the said claimant he deposeth as follows: That he doth not know the parties, complainant or defendant, in the title of the interrogatories named, or either of them.

To the second interrogatory on the part of the claimant he deposeth as follows: That he knows the said John Aspden, and has known him many years, and that he has resided in Rossendale, which is about ten miles from Great Harwood, during the whole period the deponent has known him, but he cannot say at what particular place in Rossendale; and that he was in the frequent habit of coming over to Great Harwood to see his father, Thomas Aspden, where he was living; by which means the deponent became intimately acquainted with him, and saw him the last time, about three or four years ago, at his brother Matthias'; that the deponent has heard that the said John Aspden is gone to America, but does not know the fact of his own knowledge.

To the third interrogatory on the part of the said claimant he deposeth as follows: That he knew the father of the said claimant, whose name was Thomas, and Mary, his first wife, very intimately; and recollects their keeping an ale-house at Cliff, within Great Harwood, and following the trade of a clogger at the same time; and remembers their leaving Cliff about sixty years ago, and removing to Blackburn, when he followed the trade of a clogger, and lived on the left hand side of Church street; that they lived some years in Blackburn, and regularly clogged during that period for the deponent and his family, who frequently called when he went to Blackburn; that Thomas Aspden afterwards left Blackburn, and went to reside at Rochdale; that the deponent remembers the said Thomas Aspden returning from Rochdale into the township of Great Harwood, and farming a place called Top-o'th'-Moor, and afterwards living at a place called Lowerfold, in Great Harwood, at both which places he was a clogger; and that he died at Blackburn, and was buried at Great Harwood church; that the said John Aspden was the eldest son of the said Thomas Aspden; that this deponent never knew the father of the said Thomas Aspden, but has been given to understand, by old people, that his name was William Aspden, and that the said Thomas Aspden was his eldest son; and this deponent never knew or was informed who was the great grandfather of the said claimant, or whether the said William Aspden was the eldest son of his father.

To the fourth interrogatory on the part of the said claimant he deposeth as follows: That forty years ago, or more, the deponent remembers seeing a gentleman at Thomas Aspden's house, in Great Harwood aforesaid, who the said Thomas Aspden afterwards told this deponent was his cousin Matthias Aspden, from America; but this deponent did not speak with the said Matthias Aspden when he saw him sitting in Thomas Aspden's house. And this deponent also knew Nathaniel Aspden, the younger brother of the said Thomas Aspden, and his three sisters; Mary, (who married Mr. Dyson, a schoolmaster in Yorkshire,) Margery, and Ann, who married Lawrence Walmsley. And this deponent also knew the children of the said Thomas Aspden, viz., John Aspden, the claimant, Andrew, Matthias, Nathaniel, and George. And this deponent further saith, that he hath no knowledge of Matthias Aspden, in the said fourth interrogatory stated to have lately died in London, further than that he believes him to have been the same person whom he saw at the said Thomas Aspden's house as before stated.

To the fifth interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any letter or letters from Matthias Aspden, mentioned in this interrogatory, making inquiries concerning his family in Lancaster county, in England.

To the sixth interrogatory on the part of the said claimant he deposeth as follows: That he is a stranger to the matters in the said sixth interrogatory inquired after, and knows nothing about the same.

To the seventh interrogatory on the part of the said claimant he deposeth as follows: That he has had no correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid.

To the last interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any other matter or thing of importance to the said John Aspden in this suit.

To the first cross interrogatory he deposeth as follows: That the said John Aspden spells his surname "Aspden," and that he has always spelt it so for any thing the deponent knows to the contrary; and that his father also spelt it in the same way, but cannot state how his grandfather spelt it; but that this deponent knows the name is pronounced "Astin," and the family go by that name amongst the lower orders of people at Great Harwood, though it is properly spelt "Aspden."

To the second cross interrogatory he deposeth as follows: That he has acquired his knowledge of the said John Aspden, and his father, and grandfather, by living in their neighborhood, and associating with them and their family and relations.

To the third cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's fifth interrogatory.

To the fourth cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's seventh interrogatory.

To the fifth cross interrogatory he deposeth as follows: That he hath not advised with any person, concerning the answer or answers that he was to give under this commission; but on Thursday, the sixth

day of January, he was asked at the Cross Axes inn, in Harwood aforesaid, by Mr. Henry Hargreaves, an attorney, what he knew respecting the family of the said claimant; when some memorandums were made by the said Henry Hargreaves of the information which this deponent then gave him; but he was not examined upon oath. That this deponent hath no promise or agreement from or with the claimant, John Aspden, or any one else, in regard to compensation or participation in what he may recover in this cause. And this deponent does not know of any such promise or agreement by the said John Aspden, or any one else on his behalf, with any other person or persons.

To the sixth cross interrogatory he deposeth as follows: That he is by calling the parish clerk of Great Harwood church, and also a weaver; was seventy years of age on the twenty-fifth day of December last. That he was born in Great Harwood aforesaid. That his place of residence is in what is called the lower town of the village of Great Harwood aforesaid. That he has lived there for the space of eight years last past. That his place of habitation is in the main street in the lower town of Great Harwood aforesaid, but not known by any number, or other particular designation, except that it is known to belong to Widow Calvert. That before he came to his present residence, he last dwelt at Lowerfold, in the said township of Great Harwood; and that he has not any affinity or relationship to the said John Aspden.

WILLIAM BENTLEY.

Sworn before us—
JOHN ASHWORTH,
WILLIAM GRAY.

RICHARD WOLSTANHOLME, of Great Harwood aforesaid, weaver, aged seventy-one years, being produced, sworn, and examined on behalf of the claimant, John Aspden, deposeth as follows:

To the first interrogatory on the part of the said claimant he deposeth as follows: That he doth not know the parties, complainant or defendant, in the title of the interrogatories named, or either of them.

To the second interrogatory on the part of the said claimant he deposeth as follows: That he knows the said John Aspden, and has known him from the time of his being a boy of about seven or eight years of age, at which time he lived with his father, who kept ale at a house in Blackburn, latterly occupied by one John Aspinwall, and then known by the sign of the "Wagon and Horses," and was also a clogger; that the deponent recollects the father of the claimant living at Cliff, in Great Harwood, before he lived in Blackburn, and believes that claimant's father lived in a private house in Shorrockfold or Church street, within Blackburn, before he kept the ale-house before mentioned; that he recollects Thomas Aspden, the father of the said claimant, removing with his family (including the said complainant) from Blackburn to Rochdale, which is about twenty miles from Blackburn, and a place the deponent was never at; that since the period of the claimant's leaving Blackburn with his father, as before mentioned,

the deponent has only seen the said claimant every two or three years or so, but has always known him, and spoke to him on those occasions; that the said John Aspden has lived, as this deponent has been informed and believes, for many years, somewhere in the Forest of Rossendale, which is some miles distant from Great Harwood aforesaid, but the deponent only knows the fact from hearsay, and has been informed that he is now in America.

To the third interrogatory on the part of the claimant he deposeth as follows: That he knew the father of the said claimant very well; his name was Thomas Aspden, and his first wife's name was Mary, and the deponent remembers them living at a place called Green Cliff, in what is called the higher town of the village of Great Harwood aforesaid, where they kept an ale-house known by the sign of the "Clog," and where the said Thomas Aspden followed the trade of a clogger; that the said Thomas Aspden removed from Cliff aforesaid to Blackburn aforesaid, but the deponent never was in the first house he lived in at Blackburn, which he believes was in Shorrockfold or Church street, but the deponent was frequently in his house when he kept the "Wagon and Horses" public house, from which house the deponent believes the said Thomas Aspden removed to Rochdale; that the said John Aspden was the eldest son of the said Thomas Aspden and Mary, his wife, and that after the death of his wife Mary, the said Thomas Aspden married Alice Dugdale, of Whalley, but never knew that he had any family by her; that the deponent recollects that the said Thomas Aspden, after living at Rochdale many years, returned into the township of Great Harwood aforesaid, and farmed a place called Top-o'th'-Moor, from which place the deponent thinks he went to a house below Harwood church, which was formerly a turnpike house; and afterwards, as deponent thinks, to Lowerfold, within Great Harwood aforesaid, where he lived in the farm house many years, but when he was old he removed into a cottage adjoining, where his second wife died, and he afterwards went to live with his son Nathaniel, where he died, and was brought to Harwood church to be buried, which the deponent thinks was about twelve or fourteen years ago; that this deponent never knew the father of the said Thomas Aspden, but has heard by general report that his name was William Aspden, and that he lived at Lowerfold aforesaid, in the same house that Thomas his son afterwards occupied; that the deponent has frequently heard old people say that the said William Aspden either died or was buried the same day on which King George the Third was crowned; that the said Thomas Aspden was the eldest son of his father, having only one brother, whom this deponent knew, called Nathaniel, and he was younger than Thomas; and that this deponent never knew or heard who was the great grandfather of the said claimant, or whether the said William Aspden was the eldest son of his father.

To the fourth interrogatory on the part of the claimant he deposeth as follows: That he recollects when young people frequently speaking of Matthias Aspden, the uncle of the said Thomas, having been over

at Whalley from America, for the benefit of his health, and that his eye-sight was bad; and that when he returned he took his niece Mary to America with him; and that the deponent recollects, at the time he was living in Great Harwood, and young, the neighbors saying that Matthias, the cousin of old Thomas Aspden, and son of the Matthias who many years before had been over at Whalley, was come over to Great Harwood to his cousin Nathaniel's; but the deponent did not see Matthias Aspden himself, but was informed by old Thomas Aspden that it was his cousin Matthias who had been over from America; and that the deponent had frequent conversations with the said Thomas Aspden respecting his cousin Matthias in America, and spoke of him as a person of great property, and said on one occasion that he (Thomas Aspden) was the only cousin Matthias had. And that this deponent also knew Nathaniel, the brother of the said Thomas Aspden, and his sister Mary, who married George Dyson; his sister Betty, who married one Corless; his sister Margery, who first married Cuthbert Haydock, and afterwards, as deponent has heard, James Taylor; and another sister called Ann, who married Lawrence Walmsley. And this deponent also knew all the children of the said Thomas Aspden, that is to say, Mary, the eldest child, who is dead; John, the claimant, who is the eldest son; Andrew, the second son; Matthias the third son; Nathaniel, who is dead, the fourth son; and George, the fifth son.

To the fifth interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any letter or letters from Matthias Aspden, mentioned in this interrogatory, making inquiries concerning his family in Lancaster county, in England.

To the sixth interrogatory on the part of the said claimant he deposeth as follows: That he is a stranger to the matters in the said sixth interrogatory inquired after, and knows nothing about the same.

To the seventh interrogatory on the part of the said claimant he deposeth as follows: That he has had no correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid.

To the last interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any other matter or thing of importance to the said John Aspden in the suit.

To the first cross interrogatory he deposeth as follows: That the said John Aspden spells his surname "Aspden," and that he has always spelt it so for any thing the deponent knows to the contrary; and that the said John Aspden's father spelt it in the same way, but cannot state how the said John Aspden's grandfather spelt his surname, but the deponent knows that the name is generally pronounced about Great Harwood as if it were spelt "Astin."

To the second cross interrogatory he deposeth as follows: That he first acquired his knowledge of the said John Aspden and his father, by living in their neighborhood when he was a boy, and associating with them and their family and relations.

To the third cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's fifth interrogatory.

To the fourth cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's seventh interrogatory.

To the fifth cross interrogatory he deposeth as follows: That he hath not advised with any person concerning the answer or answers that he was to give under this commission, but that he met Mr. Henry Hargreaves, an attorney, at the "Cross Axes" public house, in Great Harwood aforesaid, on Thursday, the sixth day of January instant, who asked this deponent what he knew respecting the family of the said John Aspden, when the said Henry Hargreaves made some memoranda in writing of the information which this deponent then gave him, but he was not examined upon oath; and that this deponent hath no promise or agreement from or with the said claimant, John Aspden, or any one else, in regard to compensation or participation in what he may recover in the cause, and this deponent does not know of any such promise or agreement by the said John Aspden, or any one else on his behalf, with any other person or persons.

To the sixth cross interrogatory he deposeth as follows: That he is by calling a weaver, and will be seventy-two years of age, as he believes, on the thirteenth day of April next; that he was born at a place called the Park, within the township of Great Harwood aforesaid, and that his place of residence is at a place called the Butts, within the township of Great Harwood aforesaid; that he has lived there nearly six years last past, and that the place of his said habitation is not in any street, or known by any number or other particular designation; that before he came to his present residence he last dwelt at a place called Stoops, within the said township of Great Harwood, and that he has not any affinity or relationship to the said John Aspden.

Sworn before us— RICH'D WOOLSTANHOLME.

JOHN ASHWORTH,
WILLIAM GRAY.

HENRY BARON, of Great Harwood aforesaid, weaver, aged sixty-seven years, being produced, sworn, and examined on behalf of the claimant, John Aspden, deposeth as follows:

To the first interrogatory on the part of the said claimant he deposeth as follows: That he doth not know the parties, complainant or defendant, in the title of the interrogatories named, or either of them.

To the second interrogatory on the part of the said claimant he deposeth as follows: That he knows the said John Aspden, and has known him from the time of his being a boy of about seven or eight years of age, at which time he lived with his father, who kept ale at a house in Blackburn, latterly occupied by one John Aspinall; that the deponent recollects the father of the claimant living at Cliff, in Great Harwood, before he lived in Blackburn, but cannot say whether the claimant was born at Cliff or in Blackburn, and has some recollection that claimant's father kept a public house in Shorrockfold, within

Blackburn, before he kept the ale-house before mentioned; that he recollects Thomas Aspden, the father of the said claimant, removing with his family (including the said claimant) from Blackburn to Rochdale, which is about twenty miles from Blackburn, and a place the deponent was never at; that the said John Aspden has lived, as this deponent has been informed and believes, for many years in the Forest of Rossendale, which is some miles distant from Great Harwood aforesaid; and the deponent saw him at New Church, in Rossendale, several years ago, at which time the said John Aspden lived at New Church; but the deponent has heard that he has since removed to Rawtenstall, in Rossendale aforesaid, and is at present in America, but he does not know these facts of his own knowledge.

To the third interrogatory on the part of the said claimant he deposeth as follows: That he knew the father of the said claimant very well; his name was Thomas Aspden, and his first wife's name was Mary; and the deponent remembers them living at a place called Cliff, in what is called the higher town of the village of Great Harwood aforesaid, where they kept an ale-house, known by the sign of the "Clog," and where the said Thomas Aspden also followed the trade of a clogger; that the said Thomas Aspden removed from Cliff aforesaid to Blackburn aforesaid, when this deponent was very young, and as long since as he can remember, in which town he recollects that he kept at different times two public houses; that the deponent remembers the said Thomas Aspden removing from Blackburn to Rochdale; that the said John Aspden was the eldest son of the said Thomas Aspden and Mary, his wife; that the deponent recollects that the said Thomas Aspden, after living at Rochdale many years, returned into the township of Great Harwood aforesaid, and farmed a place called Top-o'th'-Moor, from which place the deponent thinks he went to Lowerfold, within Great Harwood aforesaid, where he lived in the farm house many years; but when he was old he removed into a cottage adjoining, and he afterwards went to live with his son Nathaniel in Blackburn, where he died, and was brought to Harwood church to be buried, which this deponent thinks is about twelve or fourteen years ago; that this deponent never knew the father of the said Thomas Aspden, but has heard from old people that his name was William Aspden, and that he lived at Lowerfold aforesaid, in the same house that Thomas his son afterwards occupied; that the said Thomas Aspden was the eldest son of his father, having only one brother, whom this deponent knew, called Nathaniel, and he was younger than Thomas. And that this deponent never knew or heard who was the great grandfather of the said claimant, or whether the said William Aspden was the eldest son of his father.

To the fourth interrogatory on the part of the said claimant he deposeth as follows: That between forty and fifty years ago he recollects Nathaniel Aspden, the younger brother of Thomas, (which said Nathaniel was then deponent's landlord,) coming into the shop where the deponent was weaving, and bringing with him Matthias Aspden,

his cousin, who was then over from America; that he talked to Nathaniel's son, who was then weaving, a good deal; and remained two or three days at Nathaniel's. And that this deponent also knew Nathaniel, the brother of the said Thomas Aspden, and his sister Mary, who married George Dyson; his sister Betty, who married one Corless; his sister Margery, who first married Cuthbert Haydock, and afterwards, as deponent has heard, James Taylor; and another sister called Ann, who married Lawrence Walmsley. And this deponent also knew all the children of the said Thomas Aspden, that is to say, Mary, the eldest child, who is dead; John, the claimant, who was the eldest son; Andrew the second, Matthias the third son, Nathaniel (who is dead) the fourth son, and George the fifth son.

To the fifth interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any letter or letters from Matthias Aspden, mentioned in this interrogatory, making inquiries concerning his family in Lancaster county, in England.

To the sixth interrogatory on the part of the said claimant he deposeth as follows: That he is a stranger to the matters in the said sixth interrogatory inquired after, and knows nothing about the same.

To the seventh interrogatory on the part of the said claimant he deposeth as follows: That he has had no correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid.

To the last interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any other matter or thing of importance to the said John Aspden in this suit.

To the first cross interrogatory he deposeth as follows: That he does not know how the said John Aspden spells his surname, or how the said John Aspden's father or grandfather respectively spelt it; but the deponent knows that the name is generally pronounced about Great Harwood as if it were spelt "Astin."

To the second cross interrogatory he deposeth as follows: That he first acquired his knowledge of the said John Aspden and his father by living in their neighborhood when he was a boy, and associating with them and their family and relations.

To the third cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's fifth interrogatory.

To the fourth cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's seventh interrogatory.

To the fifth cross interrogatory he deposeth as follows: That he hath not advised with any person concerning the answer or answers that he was to give under this commission; but that he met Mr. Henry Hargreaves, an attorney, at the Cross Axes public house, in Great Harwood aforesaid, on Thursday, the sixth day of January inst., who asked this deponent what he knew respecting the family of the said John Aspden, when the said Henry Hargreaves made some memoranda, in writing, of the information which this deponent then gave him, but he was not examined upon oath; and that this deponent hath no promise

or agreement from or with the said claimant, John Aspden, or any one else, in regard to compensation or participation in what he may recover in the cause; and this deponent does not know of any such promise or agreement by the said John Aspden, or any one else on his behalf, with any other person or persons.

To the sixth cross interrogatory he deposeth as follows: That he is by calling a weaver, and will be sixty-seven years of age, as he believes, within a day or two on one side of New Candlemas day; that he was born at a place called the Park, within the township of Great Harwood aforesaid, and that his place of residence is at a place called Clinkem, within the township of Great Harwood aforesaid; that he has lived there nearly seven years last past, and that the place of his said habitation is not in any street, or known by any number or other particular designation; that, before he came to his present residence, he last dwelt at a place called Stopes, within the said township of Great Harwood; and that he hath not any affinity or relationship to the said John Aspden.

The mark
HENRY X BARON.
of

Sworn before us—
JOHN ASHWORTH,
WILLIAM GRAY.

THOMAS HARDMAN, of New Church, in the forest of Rossendale, in the said county of Lancaster, yeoman, aged twenty-nine years, being produced, sworn, and examined on behalf of the claimant, John Aspden, deposeth as follows:

To the first interrogatory on the part of the said claimant he deposeth as follows: That he doth not know the parties, complainant or defendant, in the title of the interrogatories named, or either of them.

To the second interrogatory on the part of the said claimant he deposeth as follows: That he knows the said John Aspden, and has known him ever since he could recollect anything; that he lived at New Church aforesaid from the first of the deponent's recollection of him until a period of a few years back, when he removed to a place called Rawtenstall, about a mile and a half from New Church aforesaid, and situate within the said forest of Rossendale; and that he lived at Rawtenstall up to the time of his leaving England for America.

To the third interrogatory on the part of the said claimant he deposeth as follows: That he never knew either the father or grandfather of the claimant; but he has been informed by the said John Aspden, the claimant, that his father was called Thomas; his grandfather, William; and his great grandfather, Thomas; and that the said claimant was the eldest son of his father, and that his said father and grandfather were, or were supposed to be, the eldest sons of their respective fathers.

To the fourth interrogatory on the part of the said claimant he deposeth as follows: That he has no knowledge, by general reputation

or otherwise, of the pedigree of the said John Aspden, or of Matthias, son of Matthias, who lately died in London, or of either, further or otherwise than this deponent hath deposed to in answer to the sixth interrogatory on the part of the said claimant.

To the fifth interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any letter or letters from Matthias Aspden mentioned in this interrogatory, making inquiries concerning his family in Lancaster county aforesaid.

To the sixth interrogatory on the part of the said claimant he deposeth as follows: That he hath compared the paper writing now produced and shown to him, and marked with the letter A, with the original entry of the baptism of William Aspden, contained in the register book of baptisms kept at the parochial chapel of Padiham, in the county of Lancaster, and that such paper writing contains a true copy of such entry; and that he has compared the paper writing now produced and shown to him, and marked with the letter B, with the original entry of the baptism of Matthias Aspden, contained in the said register book of baptisms kept at the said chapel of Padiham, and that such last mentioned paper writing contains a true copy of such last mentioned entry; and that this deponent hath compared the paper writing now produced and shown to him, and marked with the letter C, with the original entry of the marriage of William Aspden and Martha Horne, contained in the register book of marriages, kept at the church of Altham, in the said county of Lancaster, and that such last mentioned paper writing contains a true copy of such entry; and that he hath compared the paper writing now produced and shown to him, and marked with the letter D, with the original entry of the burial of Thomas Aspden, contained in the register book of burials kept at the said chapel of Padiham aforesaid, and that such last mentioned paper writing contains a true copy of such last mentioned entry; and that he hath compared the paper writing now produced and shown to him, and marked with the letter E, with the original entry of the baptism of Thomas Aspden contained in the register book of baptisms kept at the parochial chapel of Padiham aforesaid, and that such last mentioned paper writing contains a true copy of such last mentioned entry; and that he hath compared the paper writing now produced and shown to him, and marked with the letter F, with the original entry of the marriage of Thomas Aspden and Mary West, contained in the register book of marriages kept at the church of Great Harwood aforesaid, and that such last mentioned paper writing contains a true copy of such last mentioned entry; and that he hath compared the paper writing now produced and shown to him, and marked with the letter G, with the original entry of the baptism of Mary Aspden, contained in the register book of baptisms kept at the church of Great Harwood aforesaid, and that such last mentioned paper contains a true copy of such last mentioned entry; and that he hath compared the paper writing now produced and shown to him, and marked with the letter H, with the original entry of the burial of Wil-

liam Aspden, contained in the register book of burials, kept at the church of Great Harwood aforesaid, and that such last mentioned paper writing contains a true copy of such last mentioned entry; and that he hath compared the paper writing now produced and shown to him, and marked with the letter I, with the original entry of the baptism of the said John Aspden, contained in the register book of baptisms kept at church of Great Harwood aforesaid, and that such last mentioned paper writing contains a true copy of such last mentioned entry; and that he hath compared the several paper writings now produced and shown to him, and marked respectively with the letters K, L, and M, with the respective original entries of the baptisms of Andrew Aspden, Matthias Aspden, and Nathaniel Aspden, respectively, contained in the register book of baptisms kept at the parish church of Blackburn, in the said county of Lancaster, and that the said three last mentioned paper writings respectively contain true copies of such last mentioned entries respectively; and that he hath compared the paper writing now produced and shown to him, and marked with the letter N, with the original entry of the baptism of George Aspden, contained in the register book of baptisms kept at the parish church of Rochdale aforesaid, and that such last mentioned paper writing contains a true copy of such last mentioned entry; and that he hath compared the paper writing now produced and shown to him, and marked with the letter O, with the original entry of the burial of Thomas Aspden, contained in the register book of burials kept at the church of Great Harwood aforesaid, and that such last mentioned paper writing contains a true copy of such last mentioned entry.

To the seventh interrogatory on the part of the said claimant he deposeth as follows: That he has had no correspondence with the said Matthias Aspden, late of London, respecting his family connexions in Lancaster county aforesaid.

To the last interrogatory on the part of the said claimant he deposeth as follows: That he does not know of any other matter or thing of importance to the said John Aspden in this suit.

To the first interrogatory he deposeth as follows: That the said John Aspden spells his surname "Aspden," and that he has always spelt it so for anything the deponent knows to the contrary; but this deponent doth not know how his father or grandfather spelt it; but this deponent knows that the name is generally pronounced "Astin," and the family go by that name amongst the lower order of people, both at Great Harwood and New Church aforesaid, though it is properly spelt "Aspden."

To the second cross interrogatory he deposeth as follows: That he has acquired his knowledge of the said John Aspden by living near to him all his life, up to the period of his going to America.

To the third cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's fifth interrogatory.

To the fourth cross interrogatory he deposeth as follows: That he hath not answered affirmatively to the claimant's seventh interrogatory.

To the fifth cross interrogatory he deposeth as follows: That he hath not advised with any person concerning the answer or answers that he was to give under this commission.

To the sixth cross interrogatory he deposeth as follows: That he is by calling a land measurer, accountant and writer, and will be thirty years of age in April next. That he was born at New Church aforesaid; that his place of residence is in what is called the square in the village of New Church aforesaid; that he has lived there for the space of twenty-nine years last past; that his place of habitation is in the main street in the village of New Church aforesaid, but not known by any number or other particular designation. That before he came to his present residence he last dwelt in another house in the same village: and that he has not any affinity or relationship to the said John Aspden.

THOMAS HARDMAN.

Sworn before us—
JOHN ASHWORTH,
WILLIAM GRAY.

1691.

William, son of Tho. Aspden of Symonston, bapt. July 26.

The above is a true copy of the baptismal register of the church of Padiham, as witness my hand this 16th day of January, A. D. 1831.

S. I. C. ADAMSON, *Incumbent*.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked A.

JOHN ASHWORTH,
WILLIAM GRAY.

May, 1693.

Mathias, the son of Thomas Aspden, of Simonston, baptized the 14th.

The above is a true copy of the baptismal register in the church of Padiham, as witness my hand this 15th day of January, 1831.

S. I. C. ADAMSON, *Incumbent*.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked B.

JOHN ASHWORTH,
WILLIAM GRAY.

1727.

Wm. Aspden, of Harwood Jersey-Comber, and Martha Horne, of Altham, spinster, married by virtue of bans published by the ministers of Whaley and Harwood, 9ber 9th.

The above is a correct extract from the parish register of Altham.

WM. WOOD,
Curate of Altham.

Altham, Jan. 15th, 1831.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked C.

JOHN ASHWORTH,
WILLIAM GRAY.

March ye 25th, 1728.

Tho. Aspden, of Simonstone, farmer, bury'd 31st.

The above is a true copy of the burial register in the church of Padiham, as witness my hand this 10th day of January, A. D. 1831.

S. I. C. ADAMSON,
Incumbent.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked D.

JOHN ASHWORTH,
WILLIAM GRAY.

Thos., son of Wm. Aspden, of Hapton, laborer, and Martha, his wife, baptized June 19th, 1737.

The above is a true copy of the baptismal register in the church of Padiham, as witness my hand this 10th January, 1831.

S. I. C. ADAMSON,
Incumbent.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked E.

JOHN ASHWORTH,
WILLIAM GRAY.

Marriage register book.—Page 7.

Banns of marriage between Thomas Aspden and Mary West, both of Harwood, were published on the 3d, the 10th, and 17th days of April, 1757, by me.

JOHN SMITH.

No. 25. The said Tho. Aspden, of the Chapelry of Harwood, in the parish of Blackburn, and the said Mary West, of this Chapelry, spinster, were married in this chapel by banns, with the consent of parents, the 17th day of April, in the year one thousand seven hundred and fifty-seven, by me. JOHN SMITH.

This marriage was solemnized between us.

THOMAS ASPDEN,
MARY ⋈ (her mark) WEST.

In the presence of—
JONATHAN CALVERT,
RICHARD NUTTELL.

This is to certify, that the above copy is a faithful extract taken from the marriage register of Great Harwood, in the parish of Blackburn, county of Lancaster, and diocese of Chester. Witness my hand the 10th day of January, 1831.

ROBT. DOBSON.
Curate of Great Harwood.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked F.

JOHN ASHWORTH.
WILLIAM GRAY.

Baptisms, 1758.

April 23. Mary, daughter of Thomas Aspden, plodweaver, from Lowerfold.

This is to certify, that the above copy is a faithful extract taken from the register of baptisms of Great Harwood, in the parish of Blackburn, county of Lancaster, and diocese of Chester. Witness my hand the 10th day of January, 1831.

ROBT. DOBSON,
Curate of Great Harwood.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked G.

JOHN ASHWORTH,
WILLIAM GRAY.

Burials, 1761.

September 22. William Aspden, sen'r, from Lowerfold.

This is to certify, that the above copy is a faithful extract taken from the burial register of Great Harwood, in the parish of Blackburn, county of Lancaster, and diocese of Chester. Witness my hand the 11th day of January, 1831.

ROBT. DOBSON,
Curate of Great Harwood.

This is the exhibit or document referred to by Thomas Hardman in deposition as the paper writing marked H.

JOHN ASHWORTH,
WILLIAM GRAY.

Baptisms, 1764.

August 5. John, son of Thomas Astin, from Cliff.

This is to certify, that the above copy is a faithful extract from the

register of baptisms of Great Harwood, in the parish of Blackburn, county of Lancaster, and diocese of Chester.

Witness my hand the 10th day of January, 1831.

ROBERT DOBSON,
Curate of Great Harwood.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked I.

JOHN ASHWORTH,
WILLIAM GRAY.

Christenings at Blackburn church in 1766.

November 5th. Andrew, son of Thomas and Mary Aspden, of Blackburn.

I hereby certify that the above is a faithful extract from the parish register.

Witness my hand this 11th of January, 1831.

J. BLACKBURNE,
Curate of Blackburn.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper marked K.

JOHN ASHWORTH,
WILLIAM GRAY.

Christenings at Blackburn church in 1769.

March 5. Matthias, son of Thomas and Mary Aspden, of Blackburn.

I hereby certify that the above is a faithful extract from the parish register.

Witness my hand this 11th January, 1831.

J. BLACKBURNE,
Curate of Blackburn.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked L.

JOHN ASHWORTH,
WILLIAM GRAY.

Christenings at Blackburn church in 1771.

February 24. Nathaniel, son of Thomas and Mary Aspden, of Blackburn.

I hereby certify that the above is a faithful extract from the parish register.

Witness my hand this 11th January, 1831.

J. BLACKBURNE,
Curate of Blackburn.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked M.

JOHN ASHWORTH,
WILLIAM GRAY.

Christenings in 1776.

May 5. George, son of Thomas Aspden, clogger, and Mary, his wife, of Rochdale.

THOMAS BELLAS.

The above is a true copy from the register book of the parish church, Rochdale, taken this 13th January, 1831, by me.

RICHARD WHITELOCK,
Curate.

This is the paper exhibit or document referred to by Thomas Hardman in his deposition as the paper writing marked N.

JOHN ASHWORTH,
WILLIAM GRAY.

Page 53.

Burials in the parish of Great Harwood, in the county of Lancaster, in the year 1819.

Name.	Abode.	When buried.	Age.	By whom the ceremony was performed.
Thomas Aspden No. 423.	Blackburn, lately of Harwood.	June 7th.	81	William Barns.

This is to certify that the above copy is a faithful extract taken from the burial register of Great Harwood, in the parish of Blackburn, county of Lancaster, and diocese of Chester.

Witness my hand, the 11th day of January, 1831.

ROBERT DOBSON,
Curate of Great Harwood.

This is the paper exhibit or document referred to by Thomas Hurchman in his deposition as the paper writing marked O.

JOHN ASHWORTH,
WILLIAM GRAY.

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, esq., a citizen of the State of Pennsylvania, executor of the testament and last will of Matthias Aspden, esq., late a citizen of the same State. } In equity.

In the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit—

The President of the United States, to Asher Davidson and William A. Petrikin, esquires, commissioners, nominated on the part and behalf of William F. Packer, one of the claimants in the above cause, greeting.

Know ye that, in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, or either of you, full power and authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, in a certain action in equity therein depending, wherein the said Samuel Packer is complainant, and the said Henry Nixon is defendant, to call before you, at a certain day and place by you for that purpose to be appointed, all and every person and persons who may be named to you by the said William F. Packer, claimant as aforesaid, as witnesses in the said action, and then and there to examine them, on their respective oaths and affirmations, on certain interrogatories, hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable John Marshall, chief justice of the Supreme Court of the United States, at Philadelphia, this twenty-eighth day of April, A. D. 1831, and in the fifty-fifth year of the independence of the said United States.

D. CALDWELL, *Clk. Cir. C.*

UNITED STATES, *sct.*

In the circuit court of the United States, for the eastern district of Pennsylvania.

PACKER,
vs.
NIXON. } In equity.

Interrogatories to be exhibited to Job Packer, a witness, to be examined on the part of William F. Packer.

I. What was the name of your father and of your mother; are you or are you not the oldest son of your father and mother? State how many children they had, their names in the order of their birth respec-

tively; whether living or dead; and if any of them be dead, whether they have lawful issue surviving, and the places of residence of each and all, to the best of your knowledge and information.

II. State, from the best of your information and belief, where and when your father was born, where lived, and when and where he died; also when and where your mother was born, and when and where she died.

III. What were the names of your grandfather and grandmother respectively, on the part of your father; did you ever see or know both or either of them; did they or either of them live with any of their children at any time within your recollection, or not? State all you know of the same to the best of your knowledge, information, and belief.

IV. Upon the best of your information, hearsay, and belief, state when and where your said grandfather and said grandmother were respectively born; when and where they were married; and whether in relation to either or both they were married a second time; when and where did they respectively die, and how old they respectively then were.

V. Upon the best of your information, hearsay, and belief, state the various places where your grandfather and grandmother aforesaid resided during their lives.

VI. Upon the best of your information, hearsay, and belief, state how many children, and their names respectively in the order of birth, your said grandfather and grandmother had; the marriages of the said children, and whether or not your father was the oldest son of your said grandfather and grandmother.

VII. Upon the best of your information, hearsay, and belief, state what were the names of your great grandfather and great grandmother upon the part of your father; where they were respectively born; whether or not they lived in Pennsylvania, New Jersey, or in what place; how many children they had, and the names of such children, and whether they or either of them were married a second time.

VIII. Have you known or seen Rebecca Aspden; if so, upon the best of your knowledge, information, and belief, were the said Rebecca and your said grandfather, brother and sister, or not; and who were the children of the said Rebecca; was she twice married, and if so, to whom, and what are the names of her children?

IX. Did you or did you not know Matthias Aspden? If yea, state when and where you were acquainted with him; have you or not seen him at his dwelling house; have you or not seen him at your father's house; whether oftener than once, and when?

X. Have you or not heard the said Matthias say who was his nearest relation or heir, and to whom his property would go upon his death, or not? State all that you know about the same.

XI. Is the said Matthias Aspden, and the testator named in the above stated suit, according to the best of your information and belief, the same person or not?

XII. Do you know, or are you informed, or not, of persons or families named Packer residing in New Jersey; if yea, were they, upon the best of your knowledge, information, and belief, the children of your paternal grandfather or paternal great grandfather, or not?

XIII. Upon the best of your knowledge, information, and belief, state what were the names of your maternal grandfather and grandmother, and her maiden name; the names of their children in the order of age, and their places of residence respectively; where your said maternal grand-parents lived and died respectively, and how old they then were; whether either of them was twice married, or not, and generally any other matters material of their family history.

In like manner state the names, places of residence, ages at the time of death, the names of the children of your maternal great grandfather, and great grandmother, her maiden name, and generally all other material matters of their family history.

J. BOUVIER,
Solicitor for W. F. Packer.

Edward Hartley, in his own right, and Thomas Adams and Barsheba, his wife, in right of said wife, claimants in the above cause, file the following cross interrogatories, to be put to such witnesses as shall be examined as such on behalf of William A. Packer, at Williamsport, Lycoming county, Pennsylvania, before Asher Davidson and William Petrikin, esqrs., or either of them, or any other person, commissioner or commissioners, for the said William A. Packer.

1st. Was the mother of Matthias Aspden, the testator, married prior to her marriage with the said Matthias' father?

2d. Had she by the said prior marriage, or had she not, a son of the name of Roger Hartley? If so, please to state where he lived, and if dead when he died, according to the best of your knowledge and belief.

3d. Do you or do you not know whether the said Roger Hartley had, by the mother of the said Matthias Aspden, a son of the name of Edward, and a daughter of the name of Barsheba? If so, please to state where have they respectively resided, and where they now reside; whether the said Barsheba has or has not married, and if married, what is her husband's name, according to the best of your knowledge and belief.

4th. Do you or do you not know any of the said Roger Hartley's daughters by the said mother being married to Thomas Adams, and whether any of the said Roger's children by the said mother have resided near Yellow creek, in Columbiana county, in the State of Ohio; and if so, what were their respective names? And if married, state with whom, according to the best of your knowledge and belief.

D. McLAUGHLIN,
Solicitor for Edward Hartley, and also for Thomas Adams and Barsheba, his wife, in right of said Barsheba

Cross interrogatories to be proposed to Job Packer.

1. What is your age, and what was the place of your birth; what is the place of your residence, and how long has it been?

2. Of what religious persuasion was your father; of what religious persuasion was your grandfather; of what religious society, church, meeting, or congregation was your grandfather, as you have heard or believe, at the time of your father's birth; and what was the place of his residence at the time?

3. If you state any matter from information, hearsay, or report, please to state particularly in all instances, as far as you can, from which person or persons you derived your information or heard what you state, and at what time or times, and particularly whether it has been since the institution of this suit.

4. If you say, in answer to the ninth interrogatory, that you did know Matthias Aspden, and that you have seen him at his house or your father's, you are asked what was his age, stature, and appearance when you saw him; where was his house; where was your father's house; at what time, in what year particularly, did you see him, and what person or persons were present, or in company with him?

5. Do you know, or have you ever heard, Matthias Aspden state who were his relations; what were their names, and what their places of residence? You are requested to state all you know or have heard on this subject particularly.

6. Have you any interest in this suit; do you or your family or connexions expect to gain or lose anything by the event of it; have you contributed anything towards the expenses of carrying it on, and are you to receive any remuneration or return in case of success?

CH. CHAUNCEY,
For Thomas H. White & Co.

True copies:

D. CALDWELL,
Clerk circuit court.

In pursuance of the annexed commission, personally appeared before me, William A. Petrikin, one of the commissioners therein named, at the house of James H. Huling, in the borough of Williamsport, on Thursday, the 9th day of June, A. D. 1830, Job Packer, of Muncy township, Lycoming county, and State of Pennsylvania, who being produced as a witness on the part and behalf of William F. Packer, one of the claimants in the annexed commission named, and being duly affirmed according to law, doth declare and say, as follows:

To the first interrogatory this deponent saith: My father's name was James Packer; my mother's name was Rose, maiden name Mendenhall. I am the oldest son of my father and mother. They had twelve children, including myself, namely, Rose, who died an infant; myself; Hannah, married to William Fisher, of Centre county, died about fifteen years ago, leaving a number of children; Eli, who re-

moved to the State of Ohio, and died about a year since, leaving a number of children; Amos; now living in Centre county, and has issue; Moses, who died young, in a convulsion fit; Lydia, who died young, of a bilious fever, unmarried, and without issue; Aaron, who died several years ago, leaving issue; he lived in Centre county; Rose, the second, married twice, the last time to Thomas Hunter; she died in Ohio, and had children; Anne, who married Thomas Johnston, and had a number of children; heard they were both dead; they last lived in Ohio, at or near Short creek; James, who lived in Centre county, and died there, leaving issue; Zillah, who married John Kyler; they live at Kersey's settlement, in Clearfield county; they have several children.

To the second interrogatory this deponent saith: My father, James Packer, was born where Princetown, in the State of New Jersey, stands, or near it. He removed thence with his father, Philip Packer, when a boy, as I have been informed, to the head of Chester, in Maryland. Lived there until he become of age, when he went to East Caln, in Chester county, Pennsylvania. He there married my mother, Rose Mendenhall. He lived in Chester county until he removed to Centre county, where he died in 1805, in the 80th year of his age. My mother, Rose Mendenhall, daughter of Aaron and Rose Mendenhall, was born in Chester county, according to the information received from my parents. She died in Bald Eagle, in Centre county, about seven years ago, aged ninety-one. Always understood that she was five or six years younger than my father.

To the third interrogatory this deponent saith: The name of my grandfather on my father's side was Philip Packer, and the name of my grandmother, Anne; maiden name, Coats. I have seen them both often. They removed from the head of Chester, in Maryland, to Pikeland, in Chester county. Uncle Moses Packer moved them up. They settled near the Yellow springs. Grandfather died there. When he lived in Chester county he was very old and feeble, and walked with two staves, and went much bent. He was injured in the back by a fall through a saw-mill, and being struck by the pitman. At this time I lived with my father, James Packer, in Uwchland township, near Downingstown. I was frequently at my grandfather's when a boy. He lived with his son Moses Packer, who was bound to support him and grandmother during their lives. After the death of my grandfather, uncle Moses sold out in Pikeland to George Cressman, and removed to Harford, near the Delaware, nine miles from Philadelphia. Grandmother lived with him until he sold out there, and moved to Warrington, in York county. She then came and lived with my father in Uwchland. She lived about fifteen years with my father, when she died very suddenly with the palsy, at the close of the revolutionary war, in the eighty-sixth year of her age.

To the fourth interrogatory this deponent saith: I cannot tell when or where my grandfather was born, but rather think it was in the Jersey. My grandmother, Anne Coates, was born in Dublin, in Ireland,

as I have heard her say often. I have heard her say many a time that, during what she called the Roman rebellion in Ireland, her mother was advised to conceal her and her brother Charles in a pile of wheat from the Roman Catholics, but she refused and kept one on each knee, and Romans run their spears through the wheat, and the children were saved, being in the house and under the protection of a Catholic woman. And I heard her say that her father's life was saved at that time by his going down into a draw-well up to his chin in water. They were Protestants, and after this removed to this country; and Charles Coates, her brother, settled in Chester county in this State; Charlestown township is called for him. My grandfather, Philip Packer, married Anne Coates, as I have understood, some place in the Jersey, and settled in the first place in the fork of Cooper's creek, opposite Kensington. It was a low flat piece of land and sickly, and they removed up to near about where Princetown stands, and took up lands there, where my father and aunt Susannah *was* born. From thence he took a trip through the wilderness to between the bays in Maryland, and moved down there, and built a grist mill called head of Chester. I never heard it intimated that either my grandfather, Philip Packer, or grandmother, Anne Coates, were married a second time. I firmly believe they never were. They both died and were buried in Chester county, as before stated.

To the fifth interrogatory the deponent saith: I cannot answer it more fully than is answered above.

To the sixth interrogatory this deponent saith: That my grandfather, Philip Packer, had five children. 1st, James, my father. 2d, Susannah, who married David Matthias. They had children, Philip, Boaz, Adonijah, and two twin sons, Jonathan and David, and one daughter, Susannah. Boaz Matthias married Lucy Branham; he is now dead, but his widow; Lucy Matthias, lives in Brown street, Philadelphia. It is a long time since I have heard of any of the rest of them. I saw Lucy Matthias in Philadelphia three years since. 3d, Moses Packer, who married Jane Smith, in Goshen, Chester county. He was then an old bachelor. They had children—George, the eldest, called after George Smith, his grandfather. Philip, next, called for his grandfather Packer. Rebecca, next, called for aunt Rebecca Aspden. Uncle Moses left Harford, Chester county, (now Delaware,) the fall before the British army come to Philadelphia, and removed to Warrington, York county. I don't know how many children he had after he went to York county, or whether he had any. I have understood that his son Philip now lives in York county. After my father removed to Centre county, uncle Moses came up there on a visit and died there, and was buried in Howard township, Centre county. 4th, Aaron Packer, who married Anne Phipps, in Uwchland township, Chester county. They had a number of children; cannot say how many. He removed from there up the Juniatta. He afterwards removed to Warrington, York county. 5th, Anne Packer, who married Jonathan Marsh, at Friend's meeting, at Harford; they passed

meeting at Springfield. I was at the meeting. Marsh lived at Warrington, York county, where he died. They had children; cannot say how many, nor who they married.

To the seventh interrogatory this deponent saith: I have often heard my father, uncle Moses, uncle Aaron, and aunt Anne talk about my great grandfather and great grandmother. I have also heard my grandfather, Philip Packer, and grandmother, speak of them; the latter frequently. I have heard them all say that my great grandfather's name was Philip Packer, and my great grandmother's name was Rebecca; maiden name Jones. Rebecca Wells was named after my great grandmother, and Rebecca Ives after my aunt Aspden. Rebecca Wells was a great deal older; she was about the age of my grandfather, Philip Packer. Her oldest son was quite gray-headed when I was a boy. His name was Edmund. I always understood that she claimed kin with the family of the Packers. The Wells' lived opposite Pottsgrove, on the Schuylkill. I cannot tell where my great-father was born, but understood in the family that it was in England. I heard my father often state that my great-father had two brothers killed at the battle of the Boyne, under King William—called John and William. I rather think my great grandmother was born in Philadelphia; as to the information on this point I am not certain. I never heard that they lived in Pennsylvania; I always understood that they lived in New Jersey. I never heard of any children they had but Philip Packer, my grandfather, and his sister Rebecca. I never heard that either my great grandfather, Philip Packer, or great grandmother, was married a second time. I never heard a second marriage of either of them spoken of in our family, or elsewhere, until three or four years since the death of Matthias Aspden. I have heard that a certain Rhoda Borton has so stated. I have heard of other persons of the name of Packer living in Jersey, and have seen some of them from Raccoon creek and Ancocus, who attended market in Philadelphia. One of them had a stall near the lower end of the Jersey market house. An Indian from the Cedar Swamp had a stall next above Packer's. On one occasion I met a young woman at the Bull's Head tavern, in Strawberry alley, named Packer. She asked me if my name was Packer, having heard me called by that name. I afterwards visited her at her father's house in Jersey, somewhere about fifteen miles from Marmaduke Cooper's, eastward from the ferry, opposite Market street. I also knew a John Packer, who lived in Kennet township, Chester county; but I never knew how any of these Packers were related to us, if at all.

To the eighth interrogatory this deponent saith: I did know Rebecca Aspden, and have seen her often. She lived with her son Matthias Aspden, in Front street, between Market and Arch streets. It was always said and believed in our family, that my grandfather, Philip Packer, and Rebecca Aspden were brother and sister. My grandmother, Anne Coates, always called her sister Beckey. There never was any question about my grandfather and her being brother and sister.

When both alive there could have been no question about it. They were as much alike as brother and sister could be. They were both of short stature, and rather of swarthy complexion. Since this suit was brought I have heard that it has been said that they were half brother and sister; I never heard a word of this before, nor never heard such a thing intimated in our family in any manner or way, but quite to the contrary. The children of Rebecca were Benjamin, Bersheba, Roger, and Anne Hartley and Matthias Aspden. I never heard of any more of the Hartleys, according to my present recollection and belief. She was twice married; first, to Hartley; I think his first name was Roger, but of this not certain. The children above named were of this marriage, as I always understood and believed. Her second husband was Matthias Aspden, as I have understood; but of his first name am not certain. Matthias Aspden, the testator, was the issue of this marriage: of this I am certain. But I have heard it said years back, that he was got before marriage, more than sixty years ago. I have stated the names of the children of Rebecca Aspden already, but it seems to me like a dream that I have heard of one named Jared Hartley.

To the ninth interrogatory this deponent saith: I did know Matthias Aspden well. We were intimately acquainted. I have been often at his house; I believe more than fifty times. He and Bersheba and Anne Hartley came often to my father's house in Uwchland. They came in a carriage and staid several days at a time. When I was about, or turned of nineteen, he wanted me to keep store, and offered to furnish me with all kinds of goods at wholesale, and I might take the retail, and he would allow me six per cent. out of the wholesale. I told him that I had joined into the tanning and currying; that my father had hired a journeyman, John Ferguson, three and a half years, to instruct me. When I went to Philadelphia to market, I still went to Matthias Aspden's. I was often there at other times. Once I was there two weeks. Generally when I went there I met in his company William Savery, Thomas Mifflin, William Zane, Isaac Paxson, Benjamin Bryant and Arthur Howell. We often walked about the city together. I recollect on one occasion we went to view the new jail by Pottersfield; also we visited Penn's country seat, near the falls of Schuylkill. Another time I went with Matthias Aspden up to Germantown to see a bear fight with a butcher's bull dog. There was a city act passed to level Front street. I was there, and Matthias was very vexed about it. His door was formerly one step above the street. After they levelled and paved the street it was one or two steps down into the parlor; at the north end of the house there was an arch for wagons, drays, &c., to pass under. There were rooms over the arch. Bersheba and Anne slept there; when I was there. Matthias was engaged in the shipping business and had great luck at sea. Once I was at his house, and went out with him on to the balcony. He expected a vessel. He had a glass, and saw a ship coming round Glo'ster Point, which he said was his; we sat there till she cast anchor. When I was in the city last, I went to look for his house and found it. The house and balcony are

there yet. The arch at the north end of the house is shut up. He dealt in every thing in the mercantile way. Matthew Taylor, who before lived with my grandfather Mendenhall, was a clerk for him, and attended his wine store. My mother and sister Hannah often accompanied me to the city. They usually went to Benjamin Hartley's, and I to Matthias Aspden's.

The general run of seafaring men differed with independence. They allowed it would be an obstruction to their business. Matthias approved of the measure of standing against British usurpation, but differed with independence. It was said he went off to St. Kitts with all his shipping in the fall of '76, or spring of '77. I never saw him since. I moved from Chester up to Centre county in 1798.

There was a talk about confiscating his property after he went away. My father was very vexed, and talked about it a great deal, and said they could not do it, because he did not raise against the country, and approved of the measures in standing out against the British. Before independence was declared I saw him buy a sword in a shop in Market street; at the same time and place, Thomas Mifflin and Richard Thomas also purchased swords for themselves.

I was acquainted with Matthias Aspden from the time I was six years old till he left the country at the declaration of independence. I was then about twenty-two years of age. He was some years older than myself, but cannot say how many.

To the tenth interrogatory this deponent saith: At the time that I have mentioned that Arthur Howell, Thomas Mifflin, and others, and myself, were with him viewing the new jail near Pottersfield, I heard Thomas Mifflin ask Matthias what relation Job (meaning myself) was to him? His answer was, that Job's father was the first nearest relation he had on his mother's side; my father and Matthias Aspden were first cousins; his mother died about the same time my grandfather, Philip Packer, died, but cannot say how long before or after; it might be two or three years either way; I never heard Matthias say to whom his property would go upon his death; but I have often heard my father and mother say to whom it would go.

To the eleventh interrogatory this deponent saith: From my own knowledge, and from information received from Henry Nixon, the executor, I am certain that he is the same person.

To the twelfth interrogatory this deponent saith: I did know of Packers in the Jersey, as I have before stated. They were not the children of my grandfather, Philip Packer; they were not the children of my great grandfather, Philip Packer, that I know of, or ever heard any tell of.

To the thirteenth interrogatory this deponent saith: The names of my maternal grandfather and grandmother were Aaron Mendenhall and Rose—maiden name, Pearson; I think they had eight children; their names were John, James, Aaron Elizabeth, Rose, (who was my mother,) Lydia, George; there was another, married Christian Hildebrandt; don't remember her name; they all lived in East Caln, Chester county; but many of them moved off to different places. Moses

Mendenhall, I think, a son of either John or James, moved off to the Carolinas; came back again to East Caln, and lives, as I understand, now in East Whiteland. My grandfather and grandmother, above mentioned, lived and died in East Caln in the house in which I was bred and born. I cannot say how old either of them were when they died; they were neither of them twice married; my grandmother was a preacher in the Society of Friends; my grandfather, Mendenhall, built the first flour mill on Beaver creek, near where Downington now stands; he brought slate for the roof of his house from England. The last time that I was at East Caln meeting, John Hoops came to me and requested me to go home with him and see the place of my nativity; and he told me that the land turtles were every day seen in the meadow that uncle James and John marked; when I saw them last, they were between sixty and seventy years, and it must be above sixty-five years since I saw them last; my great grandfather's name, on the mother's side, was John Pearson; my great grandmother's name was Maris; they settled at Derby, below Philadelphia; I never heard the name of my great grandfather Mendenhall; there were but the two brothers, Aaron, my grandfather, and his brother Benjamin, that came to this country from England; can't state anything further as to his children; George Mendenhall, my mother's brother, married Mary Pimm, sister of Thomas and Richard Pimm, above Downington, and I often heard that uncle George was buried where Lancaster court-house now stands. I could state the names of my grandfather Mendenhall's children, and some of his brother Benjamin's children, but I don't see any necessity in it.

To the cross interrogatories accompanying the commission signed D. McGlaughlin, solicitor for Edward Hartley, and also for Thomas Adams and Bersheba, his wife, in right of said Bersheba, the said deponent answers as follows:

To the first cross interrogatory this deponent saith: Matthias Aspden's mother was first married to a Hartley; I think his name was Roger, but am not certain.

To the second cross interrogatory this deponent saith: She had a son named Roger Hartley, by her first husband, and several other children, as I have before stated; when I knew him he lived in Philadelphia, in Walnut street; the last I heard of him he was living at Mount Pleasant, in Ohio.

To the third cross interrogatory this deponent saith: I know that there was a daughter of the first marriage named Bersheba; I knew her well; I think she married a man of the name of Zane; but I never heard tell of a son of the name of Edward; Ann and Bersheba both lived with Matthias Aspden, and often came with him to my father's; my impression is, that after the marriage of Bersheba, she lived with her husband in Lancaster county; I have not heard of them for a long time, upwards of twenty-five years ago.

To the fourth cross interrogatory this deponent saith: I never heard of any daughter of Roger Hartley by the mother of Matthias Aspden

being married to Thomas Adams; it could not have been so, unless they were either Bersheba or Anne, for there were no other daughters of that marriage; at least I never heard or knew of any other; I understood that Roger Hartley, a son by that marriage, lived at Mount Pleasant, in Ohio; I don't know of any of the other children having lived in Ohio.

To the cross interrogatories accompany this commission, signed "Ch. Chauncey for Thomas H. White, &c.," the said deponent answers as follows:

To the first cross interrogatory he saith: I was born on the 27th day of March, 1754, at 7 o'clock afternoon, as appears on record; I was born in the Great Valley, East Caln, Chester county; my present residence is in Muncy township, Lycoming county, Pa., and has been so for about twelve years past. Before that I lived on Bald Eagle, Centre county.

To the second cross interrogatory he saith: My father belonged to the Society of Friends, and was married in East Caln, called Bradford Monthly meeting; I cannot tell of what religious persuasion my grandfather Philip Packer was, but all his children, my uncles and aunts, belonged to the Society of Friends; my grandmother, Anne Coates, belonged to the Society of Friends; I think I never knew my grandfather to be at meeting; he was a cripple, and could not ride a horseback; the place of his residence I have before stated.

To the third cross interrogatory he saith: In all my answers to the interrogatories now put to me on this examination, I have answered from my own knowledge, and from information received from my father and mother, grandfather and grandmother, and other members of our family, and others, long before this suit.

To the fourth cross interrogatory he saith: As to his stature, he was taller than myself; I was five feet eight inches, perhaps he was five feet nine or ten; he was not corpulent, nor very slender; he had dark hair, and a complexion rather swarthy; rather a longish visage; his house was in Front street, between Market and Arch, on the side next the river; as to all the other parts of this interrogatory, I have before answered them as fully as I can.

To the fifth cross interrogatory he saith: I have before stated what I heard him say at the new jail, near Pottersfield, to Thomas Mifflin; besides this, when he had been at my father's, after he had been gone away, I have heard my father and mother still say, that when he died, him or his wife would fall heir to a large estate; they said this was what Matthias told them; they always expected it, and looked for it; as the main spring of his wealth was his mother, Rebecca Packer; for I often heard them say, that Aunt Aspden joined her husband, and sold off land on ground rent, or some way, to raise money to build a ship in Penrose's shipyard, and they had not money enough to finish and freight her, but they got credit to finish her, and the first voyage she made she cleared herself; and they kept on building some time or

years before Arbuckle built his row; the last conversation I had with my father on this subject was in the spring of 1804, at his house, on Bald Eagle; he said, I wonder what has become of Matthias Aspden? I told him I did not know; I had not heard anything of him for several years; he said to me, Matthias promised that, when he died, me or mine would fall heir to a large estate; all he had, as I was the nearest relation he had.

To the sixth interrogatory he saith: I have no interest in this suit; in May, 1830, I made an assignment in writing, of all my interest and claim in the estate of Matthias Aspden, to my nephew, Wm. F. Packer, of Williamsport, in this county, without any reservation or condition whatsoever. If justice is done, I do believe that some of my family connexions expect to gain by the event of this suit; my nephew, Wm. F. Packer, being one of them; I have not contributed anything towards the expenses of carrying on this suit, and have no promise, neither direct nor indirect, to receive any renumeration or return in case of success. JOB PACKER.

Taken, affirmed, and subscribed according to law, at Williamsport, in Lycoming county, Pennsylvania, on the 9th and 10th days of June, A. D. 1831, before me.

WM. A. PETRIKIN,
Commissioner.

To the honorable court, mentioned in the annexed commission, directed to Asher Davison and myself, I do return, that the execution thereof appears by the deposition of Job Packer, taken before me as above set forth.

So answers

WM. A. PETRIKIN,
Commissioner.

10th June, 1831.

Afterwards, to wit, on the fourteenth day of May, A. D. 1832, the exceptions to the report of the master are overruled, and the report is confirmed.

Afterwards, to wit, on the fourteenth day of May, A. D. 1833, it is ordered by the court, that it be referred to Mr. Wharton, the master, to take the depositions of such witnesses as may be brought before him, by either or any of the parties, on ten days' notice.

Master's second report.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

I respectfully report:

That in pursuance of the order of the court, made on the fourteenth day of May last, by which it was referred to me to take the depositions

of such witnesses as should be brought before me, by either or any of the parties, on ten days' notice, I caused such notice to be given to the solicitors of the several parties, of the time and place fixed upon for taking depositions, and have been attended by the counsel of John Aspden; by the counsel of the heirs of Mrs. Mary White; by the counsel of John Zane and Isaac Zane; by the counsel of Joseph Lippincott, Leah Pritchett, Martha Cole, Lydia Blackwood, Maria Hays, John Hammett, Keturah Schenck, Stacy Kirkbride, in right of his wife Sarah, (children and grandchildren of Joseph Hammett, deceased;) by the counsel of the heirs of William Hinchman (excepting Joseph Hinchman,) and of the children of Zane; and by the counsel of Mary Church, Joseph P. Horner, Mary Evans, John West, Samuel Nevins, and the children of Dexter and Harriet Stone.

In pursuance of which authority I did, on the second day of September last, take the deposition of Thomas Redman, which is annexed to this my report.

The said Thomas Redman produced and testified to a certain deed, executed by Matthias Aspden, of the city of Philadelphia, in the province of Pennsylvania, merchant, and bearing date the twenty-first day of February, in the year of our Lord one thousand seven hundred and seventy-five, a true copy of which deed is annexed to this my report.

The said Thomas Redman also produced and testified to certain articles of agreement, executed by the said Matthias Aspden, and bearing date the said twenty-first day of February, anno domini one thousand seven hundred and seventy-five; a true copy of which is also annexed to this my report.

The counsel for the heirs of Mrs. Mary White, and others, also gave in evidence before me an exemplification of an act of the general assembly of the Commonwealth of Pennsylvania, passed on the thirty-first day of March, in the year of our Lord one thousand seven hundred and eighty, entitled "an act to prevent the attainder of Daniel Rundle and Matthias Aspden for a limited time, on condition that they render themselves to take their trial on or before a certain day therein limited and appointed," certified under the great seal of the State of Pennsylvania; which is also annexed to this my report.

All which is respectfully submitted.

T. I. WHARTON, *Master.*

Philadelphia, October 2d, 1833.

Deposition of Thomas Redman.

Depositions of witnesses, produced, sworn or affirmed, and examined, in a certain cause depending in the circuit court of the United States, for the eastern district of Pennsylvania, wherein Samuel Packer is complainant, and Henry Nixon, executor of the will of Matthias Aspden, deceased, is defendant, before Thomas I. Wharton, a master of said court, at his office, in the city of Philadelphia, on Wednesday the twenty-fifth day of September, A. D. 1833, in pursuance of an order of said court, made on the fourteenth day of May, A. D. 1833.

THOMAS REDMAN, of Haddonfield, in the State of New Jersey, storekeeper, aged about fifty years, being duly affirmed on the part of certain of the defendants, deposes as follows:

A paper purporting to be an assignment of rents of the real estate of Matthias Aspden, in Haddonfield, New Jersey, being exhibited to the witness, he says: I knew Samuel Kennard well, who is one of the subscribing witnesses to this instrument. He is dead, and has been dead about thirty years. The other witness, Edward Close, I did not know personally, but believe that he was the clerk of the scrivener, Peter Thomson. I do not know whether Edward Close is alive or dead. The Peter Thomson, of whom I have spoken, is deceased. He was father of the present Peter Thomson, scrivener. I own now part of the property in Haddonfield which belonged to Matthias Aspden. My father purchased from Matthias Aspden all his real estate in Haddonfield. The assignment of rents, which has been exhibited to me, and a deed now produced to me, dated the twenty-first day of February, 1775, from Matthias Aspden to Thomas Redman, my father, were found among the papers of my said father. Possession has been holden under that title ever since, by my father in his lifetime, and by his descendants since. I do not know that Matthias Aspden owned any other real estate in New Jersey than that mentioned in these instruments.

THOS. REDMAN.

Deposition taken, reduced to writing, and by the witness subscribed and affirmed to, this 25th day of September, A. D. 1833, before me.

T. I. WHARTON, *Master*.

This indenture, made the twenty-first day of February, in the year of our Lord one thousand seven hundred and seventy-five, between Matthias Aspden, of the city of Philadelphia, in the province of Pennsylvania, merchant, (eldest and only son and heir-at-law of Matthias Aspden, late of the said city, merchant, deceased, and also one of the executors, and a devisee named in the testament and last will of the said Matthias Aspden, the father, deceased,) of the one part; and Thomas Redman, of the town of Haddonfield, in the county of Gloucester, and western division of the province of New Jersey, shop-keeper of the other part, witnesseth: That the said Matthias Aspden, party hereto, for and in consideration of the sum of seven hundred pounds, lawful proclamation money of New Jersey, unto him in hand well and truly paid by the said Thomas Redman, at or before the sealing and delivery hereof, the receipt whereof he, the said Matthias Aspden, doth hereby acknowledge, and thereof doth acquit and forever discharge the said Thomas Redman, his heirs, executors, administrators, and assigns, and every of them, by these presents, hath granted, bargained, sold, aliened, enfeoffed, released, and confirmed, and by these presents he, the said Matthias Aspden, party hereto, doth grant, bargain, sell, alien, enfeoff, release, and confirm, unto the said Thomas Redman, his heirs, and assigns, all those three brick messuages or tenements, and one

wooden frame messuage or tenement, and tract or piece of land, situate, lying, and being in the town of Haddonfield, in the county of Gloucester, and western division of the province of New Jersey aforesaid, beginning at the most easterly corner of Matthias Aspden's house, and runs from thence, bounded up by the main street two hundred and fifty-eight feet and ten inches, to the corner of a lot late of Timothy Matlack, but now of John Griffin, for a second corner; and from thence it is bounded by the same, back from the street two hundred and thirty-one feet, to another corner of the said Griffin's lot, for a third corner; thence by the rear of the said Griffin's lot, parallel with the street, fifty-nine feet to the said Griffin's corner, joining to the said Thomas Redman's lot, for a fourth corner; and from thence it runs further back from the street, by the said Redman's lot, two hundred and sixty-four feet, to a post, for a fifth corner; and from thence it runs by the rear of said Redman's lot, one hundred and ninety-eight feet, or three chains, to the corner of said Redman's lot, for a sixth corner; which is likewise corner to a lot of ground late of Daniel Hilman, but now of John Shiver's; and from thence it runs by the bounds of said Shiver's lot, north fifty-one degrees twenty minutes west, eight chains and seventy links, to a small sassafras, in the line of land late of the Widow Estaugh, but now of John Estaugh Hopkins, for a seventh corner, between a ditch and the bank; and from thence it is bounded by the said John Estaugh Hopkins' land, ditch, and bank, south thirty degrees west, eleven chains and eighty-seven links, to a post in a run of water, for an eight corner; thence up the said run, south forty-eight degrees east, two chains and seventy-nine links, to a corner of land, late of Samuel Mickel, for a ninth corner; thence by the said land, late of Samuel Mickel, north sixty degrees east, five chains and twenty-eight links, to the most northerly corner of the said land, late of Samuel Mickel, for a tenth corner; and from thence by the said land late of the said Samuel Mickel, south thirty degrees east, four hundred and fifty feet ten inches, to the corner of said Matthias Aspden's lot, for an eleventh corner; thence by the rear of the same twelve feet and two inches, to a twelfth corner; thence by the same one hundred and ten feet two inches, to the corner first named, containing in all ten acres one rood and thirty-seven perches, be the same more or less. Also another certain lot or piece of ground, situate on the northwest side of the Main street, in Haddonfield aforesaid, containing in breadth, on the said street, twelve feet two inches, and in length or depth one hundred feet, bounded on the southwest by the house and ground late of Samuel Mickel, on the northwest and northeast by the house and ground above described, and on the southeast by the said street.

Also a certain other strip or piece of ground situate on the northwest side of the main street in Haddonfield aforesaid, containing in breadth on the said street twenty-two inches, and in length or depth forty feet, bounded on the southwest and northwest by ground late of the said Samuel Mickel, on the northeast by the last described lot or piece of

ground, and on the southeast by the main street aforesaid. And also a certain other lot or piece of ground, situate on the southeasterly side of the main street in Haddonfield aforesaid, containing in breadth, on the said street, eighty-three feet, and in length or depth three hundred and sixty-eight feet, bounded on the northeast by ground late of Thomas Champion, deceased; on the southeast by ground late of Sarah Norris, deceased; on the southwest by ground late of Isaac Smith, but now of Isaac Kay; and on the northwest by the main street aforesaid; [which first described tract, or piece of land, Timothy Matlack, of Haddonfield aforesaid, brewer, and Martha, his wife, by indenture bearing date the seventeenth day of February, in the year of our Lord one thousand seven hundred and forty-five-six, for the consideration therein mentioned, did grant and confirm unto the said Matthias Aspden, the father, in fee simple; and which second described lot or piece of ground, and part of the last described lot or piece of land, the said Timothy Matlack and Martha, his wife, by indenture bearing date the fourteenth day of October, in the year of our Lord one thousand seven hundred and forty-five, for the consideration therein mentioned, did grant and confirm unto the said Matthias Aspden, the father, in fee simple; and which strip or piece of ground, (being the third piece of ground above described,) Samuel Mickle, junior, of Haddonfield aforesaid, saddler, and Letitia, his wife, by indenture bearing date the fourteenth day of October, in the year of our Lord one thousand seven hundred and forty-five, for the consideration therein mentioned, did grant and confirm unto the said Matthias Aspden, the father, in fee simple; and part of which last described lot or piece of ground, sixty-three feet by three hundred and sixty-eight feet, John Hinchman, of the township and county of Gloucester aforesaid, yeoman, by indenture bearing date the ———— day of ————, in the year of our Lord one thousand seven hundred and forty-eight, for the consideration therein mentioned, did grant and confirm unto the said Matthias Aspden, the father, in fee simple, who died seized of the premises and every part thereof; having first, by his last will and testament in writing, bearing date the tenth day of August, in the year of our Lord one thousand seven hundred and sixty-four, and recorded in the register general's office in Philadelphia, devised the above described premises unto his son, the said Matthias Aspden, party hereto, his heirs and assigns forever.] Together, also, with all and singular other the buildings, improvements, streets, ways, waters, water-courses, lights, easements, rights, liberties, privileges, hereditaments, and appurtenances whatsoever, unto the said messuages or tenements, and lots or pieces of land, hereby granted, respectively belonging, or in anywise appertaining; and the reversions, remainders, rents, issues, and profits of all and singular the premises; and also all the estate, right, title, interest, use, possession, property, claim, and demand whatsoever of him, the said Matthias Aspden, party hereto, either in law or equity, or otherwise howsoever, of, in, to, or out of the hereby granted premises, and every part thereof; to have and to hold the aforesaid messuages or

tenements, and described tracts, lots, and pieces of land, hereditaments, and premises, hereby granted, bargained, and sold, or mentioned or intended so to be, with their and every of their appurtenances, unto the said Thomas Redman, his heirs and assigns, to and for the only proper use and behoof of the said Thomas Redman, his heirs and assigns forever. And the said Matthias Aspden, for himself, his heirs, executors, and administrators, doth covenant, promise, and grant, to and with the said Thomas Redman, his heirs and assigns, and every of them, by these presents, in manner following, that is to say, that he, the said Matthias Aspden, now is, at the time of ensealing and delivery hereof, *is* the true, lawful, and rightful owner of the aforesaid messuages or tenements, and described tracts, lots, and pieces of land, hereditaments, and premises above mentioned, and every part or parcel thereof, with the appurtenances; and also that he, the said Matthias Aspden, now is lawfully and rightfully seized in his own right of a good. sure, perfect, absolute, and indefeasible estate of inheritance, in fee simple, of and in all and singular the premises aforesaid, with the appurtenances, without any manner of condition, mortgage, limitation of use and uses, or other matter, cause, or thing to alter, defeat, change, charge, or determine the same; and that he, the said Matthias Aspden, now hath good right, full power, and lawful authority, in his own right, to grant, bargain, sell, and convey the aforesaid messuages or tenements, and described tracts, lots, and pieces of land, hereditaments, and all and singular the premises above mentioned, with the appurtenances, unto the said Thomas Redman, his heirs and assigns, to and for the only proper use and behoof of the said Thomas Redman, his heirs and assigns forever, according to the true intent and meaning of these presents. And also that he, the said Thomas Redman, his heirs and assigns, shall and may, at all times forever hereafter, peaceably and quietly have, hold, use, occupy, possess, and enjoy, all and singular the said messuages, tracts, lots, and pieces of land above mentioned, with the appurtenances, without the let, suit, trouble, eviction, hindrance, molestation, interruption, or denial of him, the said Matthias Aspden, his heirs or assigns, and of all and every other person or persons whatsoever, lawfully claiming or to claim by, from, or under the said Matthias Aspden, the father, deceased. And that he, the said Matthias Aspden, party hereto, and his heirs, the aforesaid messuages or tenements, and described tracts, lots, and pieces of ground, hereditaments, and premises hereby granted, bargained, and sold, or mentioned, or intended so to be, with the appurtenances, unto the said Thomas Redman, his heirs and asigns, against him, the said Matthias Aspden, party hereto, and his heirs, and against all and every other person or persons whomsoever, lawfully claiming or to claim by, from, or under him, them, or any of them, or by, from, or under any of the former owners or possessors thereof, or any part thereof, shall and will warrant and forever defend by these presents. And the said Matthias Aspden, party hereto, for himself, his heirs, executors, and administrators, doth covenant, promise, and grant, to and with the said Thomas Redman, his heirs and assigns, and every of them, by these presents, that he, the

said Matthias Aspden, party hereto, and his heirs, and all and every other person and persons whomsoever, any thing having or lawfully claiming, or shall or may so have or claim any estate, right, title, or interest of, in, or to the hereby granted premises, or any part thereof, by, from, or under him, or by, from, or under the said Timothy Matlack or Matthias Aspden, the father, both deceased, shall and will at any time or times hereafter, upon the reasonable request, and at the proper costs and charges of the said Thomas Redman, his heirs or assigns, make, execute, and acknowledge, or cause so to be, all and every such further and other reasonable act and acts, deed or deeds, device or devices, in the law whatsoever, for the further and better assurance and confirmation of the said messuages or tenements, tracts, lots, and pieces of land, hereditaments and premises, hereby granted, bargained, and sold, or mentioned or intended so to be, with their and every of their appurtenances, unto the said Thomas Redman, his heirs and assigns, forever, as by him or them, or by his or their counsel, learned in the law, shall be reasonably devised, advised or required. In witness whereof the said parties have interchangeably set their hands and seals hereunto; dated the day and year first above written.

MATTHIAS ASPDEN. [SEAL.]

Sealed and delivered in the presence of us—
EDWARD CLOSE,
SAMUEL KENARD.

Received the day of the date of the above written indenture, of the above named Thomas Redman, the sum of seven hundred pounds, it being the full consideration money above mentioned.

MATTHIAS ASPDEN.

Witnesses present at signing—
EDWARD CLOSE,
SAMUEL KENARD.

Be it remembered, that on the twenty-eighth day of December, anno domini 1782, personally came before me, John Wilkins, esquire, one of the judges of the county court for holding of pleas, in and for the county of Gloucester, Samuel Kenard, esquire, one of the within subscribing witnesses, who being one of the people called Quakers, upon his solemn affirmation, saith, that he saw Matthias Aspden, the grantor of the within indenture, sign, seal, and as his act and deed deliver, the same, for the uses and purposes therein contained; and that Edward Close, the other within subscribing witness, was also present, and subscribed his name thereunto at same time.

SAMUEL KENARD.

Affirmed and taken, the day and year aforesaid, before me.

JOHN WILKINS.

The foregoing is a true copy of the indenture, referred to by Thomas Redman. T. I. WHARTON, *Master*.

Whereas Thomas Redman, of Haddonfield, in the county of Gloucester, in the province of New Jersey, shopkeeper, hath purchased of Matthias Aspden, of the city of Philadelphia, in the province of Pennsylvania, merchant, all his real estate in Haddonfield aforesaid, consisting of one house and lot in the tenure of Sarah Bispham, from the seventh of April last, at the annual rent of eleven pounds; one other house and lot, in the tenure of Thomas Smith, from the twenty-fifth of July last, at the annual rent of ten pounds; and one other house and lot, in the tenure of William Chew, from the first day of May last, at the annual rent of eight pounds. And whereas it is agreed, by and between the said Matthias Aspden and Thomas Redman, that he, the said Thomas Redman, shall receive and be entitled to all and every of the aforesaid rents, from each and every of the days they commenced from, as aforesaid. Now, know all men by these presents, that I, the said Matthias Aspden, for a valuable consideration, to me in hand paid by the said Thomas Redman, have assigned, transferred, and made over, and by these presents, I, the said Matthias Aspden, do assign, transfer, and make over, unto the said Thomas Redman, his executors, administrators, and assigns, all and singular the aforesaid rents now due, or hereafter to become due, by virtue of the several agreements made on my part with the several tenants aforesaid. In witness whereof I have hereunto set my hand and seal, the twenty-first day of February, anno domini one thousand seven hundred and seventy-five, (1775.) MATTHIAS ASPDEN. [SEAL.]

Witnesses present—
EDWARD CLOSE,
SAMUEL KENARD.

1775.—3 mo. 8. Received of William Chew, in full of his rents, £6 17 10.

1776.—5 mo. 7. Received of Thomas Smith, for one year's rent, due the 25th of 7th mo. last, £10.

The foregoing is a true copy of the deed poll, referred to by Thomas Redman. T. I. WHARTON, *master*.

[Seal of the laws of Pennsylvania.]

An act to prevent the attainder of Daniel Rundle and Matthias Aspden, for a limited time, on condition that they render themselves to take their trial on or before a certain day therein limited and appointed.

Whereas his excellency the President, and the honorable the Supreme Executive Council of this Commonwealth, by their proclamation, under the hand of the said President, and the seal of the State, bearing date the twenty-seventh day of July, in the year of our Lord one thousand seven hundred and eighty, by virtue of the powers and authorities to them given, in and by an act of general assembly, enti-

tled an act for the attainder of divers traitors, if they render not themselves by a certain day, and for vesting their estates in this Commonwealth, and for more effectually discovering the same, and for ascertaining and satisfying the lawful debts and claims thereupon, did charge and require, amongst others, Daniel Rundle and Matthias Aspden, merchants, late of the city of Philadelphia, to render themselves to some or one of the justices of the Supreme Court, or of the justices of the peace of one of the counties within this State, on or before the first day of April then next following, and also abide their legal trials respectively for high treason, on pain that they and each of them not rendering themselves as aforesaid, and abiding the trial aforesaid, shall, from and after the said first day of April, stand and be attainted of high treason, to all intents and purposes, and shall suffer such pains and penalties, and undergo all such forfeitures as persons attainted of high treason ought to do: And whereas it is now made appear that the said Daniel Rundle and Matthias Aspden were, at the time of the said proclamation, and probably still are, in Europe; that their friends have used all lawful means in their power to convey intelligence to them of their being so proclaimed as aforesaid, but that there is very great reason to believe that the said intelligence has never reached them; and it being also shown that the said Daniel Rundle and Matthias Aspden were called to Europe about their own private affairs; and it being alleged and insisted that the said Daniel Rundle and Matthias Aspden will certainly render themselves up, and stand their trial for the matters alleged against them, if they can be indulged with time to a further day, and have notice of the proceedings here. Wherefore it has been prayed on their and each of their behalf, that the aid of the legislature may be interposed to stay their attainder, for that no other power is supposed to be competent to that end; which being just and reasonable:

Be it therefore enacted, and it is hereby enacted by the representatives of the freemen of the Commonwealth of Pennsylvania, in general assembly met, and by the authority of the same, that further time be given to the said Daniel Rundle and Matthias Aspden, and each of them, for rendering themselves respectively to one of the justices of the Supreme Court, or of the peace aforesaid, and abiding their trial aforesaid, for the term or space of nine months, to be computed from the day of passing this act.

And be it further enacted by the authority aforesaid, that the said Daniel Rundle and Matthias Aspden, or either of them, so as aforesaid rendering himself to one of the justices as aforesaid, on or before the thirty-first day of December next, and abiding his trial aforesaid, he or they so rendering himself, and abiding his trial, shall not become attainted, or suffer the penalties, or undergo the forfeitures of high treason, for or on account of his not rendering himself and abiding his trial on or before the day limited and prefixed in and by the same proclamation, but that their and each of their attainders be stayed, and that he or they so rendering himself or themselves on or before the day limited

and appointed, and abiding his trial according to the purport, true intent, and meaning of this act, shall and may be and remain free and clear from all and every attainder and attainders, other than such as may ensue upon a full and plain trial, and the verdict of their country in due course of law, anything in the afore recited act of attainder or proclamation in anywise notwithstanding.

Provided always, and be it further enacted by the authority aforesaid, that if the said Daniel Rundle and Matthias Aspden shall not render themselves respectively to some or one of the justices of the Supreme Court, or of the justices of the peace of one of the counties within this State, on or before the said thirty-first day of December, and also abide their legal trial for such treasons as may be alleged against them respectively, that then and from thenceforth, he or they so not rendering himself as aforesaid, or not abiding the trial aforesaid, shall stand and be adjudged, and by the authority of this present act be convicted and attainted, of high treason, to all intents and purposes whatsoever, and shall suffer and forfeit as a person attainted of high treason by law ought to suffer and forfeit; and that he or they so not rendering himself and abiding the trial aforesaid, his estate and effects shall in all things be dealt with, disposed of, regulated, and conducted according to the act hereinbefore first recited, anything herein contained to the contrary notwithstanding.

Enacted into a law at Philadelphia on Saturday, the thirty-first day of March, in the year of our Lord one thousand seven hundred and eighty.

SAMUEL STERETT,
Clerk of the General Assembly.

Signed by order of the House.
FREDK. A. MUHLENBURG, *Speaker.*

SECRETARY'S OFFICE,
HARRISBURG, *September* 13, 1833.

This is to certify, that the foregoing is a true copy of the original law, on file and of record in this office.

Witness my hand and seal.

SAML. M'KEAN.

PENNSYLVANIA, *ss.*

[L. S.] GEO. WOLF.

In the name and by the authority of the Commonwealth of Pennsylvania, George Wolf, governor of the said Commonwealth, to all to whom these presents shall come, sends greeting:

Know ye, that Samuel M'Kean, esquire, whose name is subscribed to the instrument of writing hereunto annexed, was, at the time of subscribing the same, secretary of, for, and in the said Commonwealth, duly appointed and commissioned; and full faith and credit ought to be given to his official acts accordingly.

Given under my hand and the great seal of the State, at Harrisburg, this thirteenth day of September, in the year of our Lord one thousand eight hundred and thirty-three, and of the Commonwealth the fifty-eighth.

By the governor.

SAML. M'KEAN, *Secretary of Commonwealth.*

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit. In equity.

No. 1. *April session*, 1828.

PACKER AND OTHERS
vs.
NIXON, executor of ASPDEN.

Opinion of the court. Baldwin, Justice.

Delivered on the 26th day of December, 1833.

The subject matter of this controversy is the personal estate of Matthias Aspden, who died in London in 1824, having made his will in 1791, which remained unrevoked and unaltered at the time of his death. The respondent is the surviving executor of his will, in whose hands the fund in controversy remains, subject to the decision of the court. The will is in these words:

"These are to Certify that I do hereby annul and revoke all my former Wills. Giving and bequeath[ing] my Estate (to my H) Real and Personal to my Heir at Law—first [paying] all my Just debts and funeral expenses—and th following Legacies first to each of (my) [the] Children of my half brother Benjamin Hartley deceased that may be alive at my death th sum of One hundred pounds to each Pennsylvania Currency and to my half sister Bersheba Zane wife of Elnathan Zene th sum of Four hundred pound Pennsylv'a Currency both the above Liveing or did Live at or neer Haddonfield—and to my half Brother Roger Hartley—liveing at Present in Lancaster County the sum of three Hundred pounds of the like Currency—Witness my hand this 6th day of Decem. 1791—*Philadelphie*.

MATTHIAS ASPDEN.

Least any Question should arise about the Legiteimacy of my Birth—It is my Will that my Estate real and personal should go to th party who would be my [Lawfull] Heir in Case there might arise no doubt on that head—It is firmly believed by from the best information—that my Birth was after marriage

Philadelphie Decem. 6th 1791."

On the back:

"The Last of Will of Matthias Aspden—*I do hereby* appoint my

friends Mr George Roberts. and Mr Abram Lidden. with the President of the [old] Bank at the time being. to be my Executors to this my last Will—

MATTHIAS ASPDEN.

I do further give one hundred pounds Curr'cy to each of the Children of my deceased [half] sister Ann Hinchman—that may be Liveing at my death—

Decem. 6th 1791.

Note my property in England is as follows.

£12500 in th 4 p C. Stock
£ 3000 in th 5 p C. Stock
£ 1800 in the 3 p C' Stock"*

There are three classes of claimants who are parties to this suit:

1. The heirs-at-law of the testator on the paternal and maternal side.

2. The next of kin of the whole blood, descended from the paternal and maternal grandfather.

3. The next of kin descended from the half-sister on the father's side, and from the half-brothers and sisters on the mother's side. Samuel Packer claims as heir-at-law on the mother's side; John Aspden claims in the same capacity on the side of the father, in direct lineal descent from Thomas Aspden, the grandfather of the testator, who died without issue, father or mother, brother or sister of the whole blood. The master, on a reference to him by the court, reported that John Aspden was the heir-at-law, and on an exception filed to this part of his report, the court affirmed it; he must therefore be deemed, for the present, to be the heir-at-law of the testator.

The first question, then, which arises is, whether he is entitled under the will as heir-at-law, or lawful heir of the testator? Or whether the estate goes to the next of kin, as the persons designated by the testator, or as those to whom the law would accord it, if the will shall be considered as describing no definite person or party? This question must be disposed of before there can be any inquiry into the pretensions of the two classes of claimants as next of kin; for if the heir-at-law has a right as a purchaser under this will, he takes the whole fund.

As neither the capacity of the testator nor the validity of the will has been questioned, the rights of the parties depend on its legal effect and operation as his last will, which is defined to be the testatio mentis, or testament; a declaration, provision, or direction, in that he would have to be done with his estate, or how it should go after his death, as the evidence of his mind on the subject. Went. Off. Ex., 265; 8 L.

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* The erasures in the above copy of the will are enclosed in parenthesis ( ); the interlineations in brackets [ ]; and the underscored words are printed in *Italic*.

111, a. 322 b.; Pl. 343; 1 Bulst., 223; Sheph. Touch., 399. Fitz. G., 239, or the appointment of a testamentary heir. Swinb. 3, 12.

The testator has testified his mind or intention in the paper before us, in his own words and handwriting. It contains his direction and declaration, being a provision for the event in contemplation of which it was made, which must be carried into execution so far as its meaning can be ascertained from the words he uses, taken in connexion with the law which directs how papers of the kind shall be expounded, and the evidence in the case, to which the law is to be applied according to such circumstances as may bear on the written declaration of intention. It is an acknowledged principle, that wills are to be construed according to the intention of the testator; which shall be carried into full effect in all cases which are not repugnant to the settled law and rules of policy of the country in which they are to be executed. The laws of every country prescribe the rules by which such intention is to be ascertained, and these rules form the law of the case by which the court must be governed.

The counsel for the claimants do not agree in opinion as to the personal or local condition of the testator; whether he was, at the time of making his will, or at his death, a citizen of Pennsylvania or a subject of the crown of England, nor in which country he was domiciled by legal residence. It is not pretended, however, that he owed allegiance to any other State than Pennsylvania or Great Britain, or that he had any other domicil than Philadelphia or London. We may, therefore, safely assume that the rights of the parties must be tested by the law of one country or the other; and that if the laws of both are alike in all matters which affect the construction and legal effect of this will, they must be followed as the rule which must guide our judgment.

The sixth section of the charter to William Penn provided that "the laws for regulating and governing property within the said province, as well for the descent and enjoyment of lands, as for the enjoyment and succession of goods and chattels, shall be and continue the same as they should be by the general course of the law in the kingdom of England, until the said laws shall be altered." The colonial law of 1718 declared "the common law to be the birthright of English subjects so it ought to be their rule in the British colonies," as a settled point. 1 Dall., 130, 33. The State law of 1777 adopted the common law, and such of the statute laws of England "as have heretofore been in force in the province." 1 Dall., 723.

The first inquiry, then, is, what was the general course of the common and statute law of England, in relation to the descent of lands and the succession to personal property, as it was in force in this State in 1777? When this is ascertained, it becomes statute law by express adoption, as fully as if re-enacted verbatim. The next inquiry is, in what respect it has been altered or repealed by acts of assembly?

There is no statute law in England which regulates the descent of the real estate of a person who dies intestate; it descends to and vests,

according to the course of the common law, in the person who, by the act of God, and in the right of blood, succeeds to the estate of one who dies seized of an inheritable interest in land. The course of descent is prescribed by definite rules or canons of the law, which designate the person who is nearest and worthiest of blood to the deceased owner, as hæres sanguinis; who, by right of inheritance, is heir to himself and estates of inheritance. The person on whom this right devolves is the eldest son of the father who dies seized; or, if he dies without lineal descendants, his eldest brother and their oldest sons, and their lineal descendants in perpetual succession; if males, to the oldest son; if females, to them equally as parceners. L. 7, 6; Litt., sect. 2, L. 10, a. 13, b; Cow. L. Int., Tit. Hæres. G. Dev., 156.

The word heir is taken in a double sense, as relates to the person of the ancestor and to his estate. His personal heir is the one who is nearest in blood to him, and descended from the same ancestor on the side of the father, as the worthiest in blood. If a male descendant, it is one person only who is his heir at common law; he is also heir to his estate, if it is held and descends according to the course of the common law. But if the estate is in lands which are held by any particular tenure, and descend according to any local or customary law, the heir as to the land is the person to whom it descends by the custom. The difference is very forcibly and perspicuously exemplified by Lord Hobart, in Counden vs. Clerke: "Heir is sometimes taken absolutely, or simply, or according to or by accident; sometimes in the abstract, standing naked by itself and of itself; and sometimes in the concrete, clothed with land or rent, in respect of which he may be heir, that is, not right heir, as the word is here. For example, the younger son, in borough English, is heir; and all the sons in gavelkind, whereof the reason is, because the custom is, and so must be pleaded, that the custom of those lands is that they must descend to the younger son or all the sons; so they are heirs secundum quid of those lands in point of descent, or when they descend; for then they are within the custom that gives the inheritance. Sum demum sumus cum per causas primus. But now make the limitation, even of land of that nature, to heirs not in point of descent, and it will be clearly otherwise. And therefore if I give lands, in gavelkind or borough English, to one for life, the remainder to the right heirs of I. S., the true heirs shall take it; for that is out of the case of custom, and so must run to the heir at common law. Note, also, that warranties and estoppels do always descend upon the right heirs general, as being to simple heirs. If there be a warrantor who hath lands in gavelkind, the eldest son shall be vouched alone, but the tenant may also vouch the others, for the possession; that the heir general shall take such advantage of such warranty, and none other." Hob., 31.

"Nay, more; if I convey lands that I have on part of my mother, or in borough English, and declare the use to me and my heirs, or reserve a rent to me and my heirs, it shall go to my heirs at the common law, for it is not within the custom; but it is a new thing divided from

the land itself, and that is the reason of another difference, that land by descent falling upon one shall be taken from him by a nearer heir born. Not so of these purchases." Hob., 31.

The same distinction is taken by Lord Coke, (L. 10, a,) and illustrated in Lord Mansfield in Doe ex dem. Lansing vs. Long, 2 Burr., 1106, 10. He says: "Now the term heirs, (in the plural,) in the case of gavelkind land, answers to the term heir (in the singular) in the common case of lands which are not gavelkind; for the word heir (in the singular) would not serve for gavelkind lands, it must be heirs (in the plural.) Therefore, all the arguments and reasonings that are applicable to the word heir (in the singular) in the common case of lands not being gavelkind, hold with equal strength and propriety when applied to the plural termination heirs, when the lands are gavelkind." These remarks are copied by the late Judge Yeates, in his opinion in Findley vs. Riddle, 3 Binney, 158, adapted and applied to the law of Pennsylvania. "This custom of gavelkind is in unison with our laws, except that females here share equally with males the real estate of their father, when he dies intestate." "Previous to our act of the 19th April, 1794, the eldest son took a double share. Now, all the above reasons apply to the case under consideration. The word heirs cannot point to the eldest son, but includes all the children of the first taker, male as well as female; which could not be the case if he took an estate tail."

The difference between the word heir in the abstract, and heir or heirs in reference to the estate, and the tenure by which it is held, and the law or custom according to which it descends, is a common principle of the law of both countries, which must be borne in mind in the investigation of this case. The analogy between the customs of England, which regulate the descent of lands in the county of Kent, and in certain ancient boroughs, as local laws, and the laws of Pennsylvania, which prescribe their descent in certain specified cases, is also all important in its bearing on the construction of this will.

The custom of gavelkind is peculiar to the county of Kent; where, by the custom and use, time out of mind, lands descend to all the sons Litt., sect. 210, l. 140, a, b. The people of this county made it a condition of their submission to the Conqueror, that this custom should continue as the law of tenures and descent, notwithstanding the establishment of the feudal system as the general law of the kingdom; it remained, therefore, an exception to that law, as it had before been an exception to the general rules of the common law, unless since disgavelled by statute, l. 140, b. As the only evidence of the customary law is immemorial usage, it is a consequent principle that the usage is the precise measure of the law (Gilb. Dev., 153–4; Fitz, 243); it cannot be extended, by any construction, to any cases not covered by the custom, the very essence of which is its existence in the particular place applicable to the special case, and applied for a length of time whereof the memory of man runneth not to the contrary. From this custom the law raises the presumption that wherever it could have a lawful

origin there was an act of parliament to authorize it to the extent of the usage. Cowp., 106,–9,–12, c. 5, 2; c. Inst., 58; Willes, 116; 6 Pet., 715; Davis, 87, &c. But as it is in contravention of the general course of the law, it shall be confined to the particular cases and places to which it has been applied time out of mind (1 Bl. Com., 79): it shall be construed by the same rules as an act of parliament which derogates from the common law; that is, strictly according to its letter; nay, very strictly; (Gilb., 153;) for it would be a violation of all rules, that a statute which is not on the rolls of parliament which, from usage, is presumed to have ever existed, and to have been lost, should be of greater force than one in the statute book, or be exempted from those principles of jurisprudence which are fundamental. One of the first and most sacred is, that "the common law hath no controller in any part of it but the high court of parliament; and if it be not altered or abrogated by parliament, it remains still; particular customs must be proved." L. 115, b. 33, b. 58, b. 113, a, b; Litt., sect. 169. The same principle is the rule in Pennsylvania, in all cases to which the common law had been applied by adoption; and it remains now the law of descent of both real and personal estate, if the provisions of an act of assembly do not, in their words, embrace the very case in controversy.

This must be taken to be a point conclusively settled as the law of the State, by the authoritative decisions of the high court of errors and appeals, in Johnson and Haines (4 Dall., 64,) and of the Supreme Court in Cresoe vs. Laidley (2 Binney, 279, 284,) and no longer open to discussion; that there is in this State such a person as an heir at common law, distinct from the statutory heir, to whom the real estate of a person dying seized and intestate shall descend by the general course of the law in right of blood and inheritance. That the common law of both countries is the same, designating the same person, by the same rules and courses of descent, as the heir to an ancestor in all cases, and the heir to his estates of inheritance, unless, in the particular event which has happened, an act of assembly has substituted some other person or persons to take the place of the ancestor for its enjoyment and disposition, as a special law for the case, like to the law of custom, which breaks the course of descent according to the general course of the common law.

This was the law of the province from its first settlement; it was expressly declared so by the eighth section of the act of 1705, and the heir was referred to as the heir in the abstract, according to the meaning of the word as given by Hobart. "The said lands and tenements shall descend and come to the intestate's heir-at-law, according to the course of the common law aforesaid." 3 Sm., 153,–8, note; 1 Dall., App., 45.

The same result follows from the law of 1718, adopting the general course of the law of England and the common law, a fortiori, from the act of 1777, which makes it the statute law of the State; for it cannot be denied that this principle had been previously adopted, and was then in force, not only by usage, but positive enactment; it has, also, the

highest judicial sanction, independent of any act of assembly. This view makes the remark of Judge Yeates, in 2 Yeates, 69, not only perfectly intelligible, but gives the authority of his name to the application of this principle. He says: "When an ancestor leaves more children than one, the term heir-at-law conveys no idea with us; they are all his co-heirs." The reason is obvious; they do not take as heir-at-law by the course of descent, but as heirs by a special law, which breaks the course of the succession by the common law; they are heirs as distinct from the heir-at-law as heirs by custom of gavelkind. A reference to the distinction as drawn by Lords Hobart and Mansfield, and Judge Yeates himself, in the case of Findley and Riddle, will show most convincingly that heirs has the same meaning in Pennsylvania as in the county of Kent; heirs by special law in one case, and by the law of custom in the other.

That heir-at-law, or heir simply, does not mean heirs by custom in England, or statutory heirs in Pennsylvania, is the evident meaning of Judge Yeates. The observation of the Ch. J. M'Kean, in the same case (2 Yeates, 61; 2 Dall., 245,) "Thomas could not, in this case, be considered as heir-at-law in Pennsylvania, where, if at that time a person died intestate, leaving divers children, his real estate descended to all his children equally, the eldest son having only a double portion or share, and therefore the devise may even be considered a condition," draws us irresistibly to the same conclusion. The eldest son could not take as heir-at-law by the course of descent in a case to which the act of assembly applied, and, by superseding the common law, established a special course of descent; but he could be, and is, by the existing law, heir-at-law in this State, according to the opinion of the court, delivered by the Ch. J., in Johnson vs. Haines, and of Judge Yeates, in Findley vs. Riddle, in a case not embraced in any act of assembly, which accords precisely with the principle they laid down in Ruston vs. Ruston. Taking these three cases in conjunction with Cresoe vs. Laidley, they completely negative the proposition that there is any difference between an heir-at-law here and in England, except such as is made by custom or act of assembly. This becomes a negative, pregnant with important consequences as to the legal meaning of the word heir-at-law; that it not only is that which the common law gives it, but that it is not to be taken to refer to the customary or statutory heirs. "The term heir-at-law conveys no idea; with us they are all his co-heirs." It is thus a term of contra-distinction and of designation, denoting the person who has and can have no co-heirs, the sole inheritor of the estate of the ancestor, by a right in its nature necessarily exclusive. The law of both countries recognises heirs as a class or a number of persons having equal rights by special law, and the heir as one person entitled, by common law, to the whole estate by right of blood alone. This necessarily follows from the opinions of the judges in Ruston vs. Ruston, in accordance with the rule laid down in all the cases, from Counden and Clerke to Findley vs. Riddle, that customary or statutory heirs cannot take by a deed

or devise to the heir-at-law, the heir or right heir of the grantor or devisor, because they are different persons, claiming in different characters and capacities; and the words are incapable of substitution as convertible terms, without uprooting the whole course of descent, and every settled rule of inheritance and construction. Vid. Gilb. Dev., 16, 162; 3 Salk., 336.

There is no branch of the law in which the courts of England and this State have been more anxious to adhere to established landmarks, than in the meaning given to the words heir and heirs, and none on which the security of titles so much depends.

Subtle as the distinctions on which some cases turn may be thought to be, they will be found, on investigation, to be founded in the strongest reasons of policy and good sense; which have stood the test of time, admired for their wisdom by all who will understand them, and never departed from without the most pernicious consequences to the peace of society and the safe enjoyment of estates.

The legal meaning of the word heir or heirs depends on the intention of the party who uses them in a deed or will. They are used in one of two senses, as words of limitation or purchase. In the first sense they denote the quantity of estate given to the person named; in the other, the person designated to take the estate; but they never operate in both ways. Where they operate by way of limitation, the whole estate vests in the first taker, and on his death intestate, descends to his heir according to the common law, as an estate descendible forever in fee, or in tail, according to the form of the gift. In these cases the word heir is nomen collectivum; not as a name of numbers, but as a word denoting the continuance and succession of the estate in the heir by inheritance from ancestor to heir, and from heir to heir. 4 D. C. D., 571; L., 145; 2 Danv. Ab., 556, pl. 4; 2 R. A., 253, H. pl.; 1 Gil. D., 20; 1 Bulst., 219; cited. Where they are used as words of limitation, heir or heirs mean the same thing. (L., 22, b, denoting the estate, 1 Bulst., 22, '3.) So is the term right heir or heirs; it means only one person, who is right heir by the common law. So of the words heir-at-law, heir at common law, heir general, or lawful heir; they mean the person who is heir jure hæreditatis. These words are prima facie words of limitation, unless the words are express, or have a different meaning, by necessary implication, from the whole sense and tenor of the writing, (l. c., 66, b; L., 12, a; 2 Rawle, 33.)

The word heir cannot be a name of purchase, unless the devisor parts with the whole estate which is in him, (L., 22, b.; 2 R. A., 253, pl. 3;) nor when the heir takes that, after the death of his ancestor, which the ancestor could enjoy while living; for that is descent, and not purchase. 3 D. C. D., 309; L., 13, b, 14, a; 2 Danv., 557, pl. 11; Gilb. Dev., 113; l. c., 95, &c. A man cannot raise a fee simple to his own right heirs, by the name of heir, as a purchase, (Hob., 30.) So of a devise to a person who is his next heir, and his heirs; it works by descent, (Hobart, 30,) because he is simply heir to the ancestor, and the devise does not break or alter the course of descent, whatever mode of expres-

sion is adopted. If it denotes the person who is to take by the term heir in the capacity of heir to an ancestor, and not a person designated as the heir of some one, as a term describing the person to take, he takes by descent. A strong and clear illustration of this rule of the common law is in the principal case of Counden vs. Clerke, (Hob., 29,) which was a devise of soccage lands "unto the right heirs male and posterity of me and my name forever." The testator left a son, a daughter, and brother; the son died without issue; the daughter married and had issue, two daughters; so that the contest was between the brother and granddaughters of the testator. It was held that the brother could not take, because he was not the heir; and the granddaughters could not take because they were not heirs male of his name. A similar case is put by Lord Coke (L. 24, b.;) on which he gives the opinion, that the devisee must answer both parts of the description—he must be, first, heir; and next, male or female heir—or the estate goes to the heir-at-law. This rule is examined by the learned annotator on Coke, through the preceding and subsequent cases, down to the time of Ld. Hardwicke. The result of his labors is conclusive in support of the doctrine of Coke and Hobart (Vid., note 145.) It would be useless labor to follow him in his researches, when the conclusions are so apparent; and it is unnecessary to refer to any other case than has been cited by him, except one, which was decided in the House of Lords in 1787. Though it is not in itself authoritative in this State, as an adjudication, since the revolution, yet, as it is in affirmance of the ancient principles of the common law, it is entitled to great respect. In Bailey vs. Pugh the devise was "to the right heirs of the testator forever, his son excepted, it being my will he should have no part in my estate, real or personal." The testator left a son and heir-at-law, and three daughters. Lord Mansfield (relying on an opinion of Ld. Cowper in Brown vs. Barkham, commented on fully in the note to L. 24, b,) considered the true meaning of the devise to be, to such person as would be my right heir if my son were dead. Fearne Rem., 573,–4, App. On a writ of error to the House of Lords, the following question was proposed by Lord Thurlow for the opinion of the judges: "whether any person and who, took any and what estate under the will mentioned in the special verdict, by way of devise and purchase?" The unanimous opinion of those present was, that no person took any estate under the will. 3 B. P. Cas. Toml. Ed., 454,–9; 2 Mer., 348.

This was in precise conformity to Counden and Clerke; the daughters could not take under the will, because they were not the right heirs of the testator. They could not be purchasers under the will, but the land descended to them as heirs-at-law, on the death of the son without issue; so that they were in by descent, in right of inheritance as heirs at common law, and not by the operation of the will. What adds great weight to the decision in the latter case is, its approbation by two of the greatest lawyers of this or any former age. Sir William Grant, in 2 Merivale, 348, and Sir Thomas Plummer, 2 Jac. and Walk., 102. All the doubts, therefore, that had existed in England

on this subject, prior to 1787, may be considered as then put to rest. Though Lord Mansfield, and the court of king's bench, in Wills and Palmer, 5 Burr., 2615, and a subsequent case referred to in the note to L. 164, a, may have been opposed to the application of the rule in those cases, they could not have intended to so lay down the rule that the word heir, or right heir, when used in a will, without any words of explanation or qualification, were or could be, in any case, words of purchase; for, in the subsequent case of Bailey vs. Pugh, he observes: "as to right heir being a term of description, where a man gives to his own right heir, he don't take by description, but by his better title by descent." Fearne, App. 574. His opinion in the former cases was not confined to the words. The general rule has never been denied; the questions have arisen on cases alleged to be exceptions, which prove its existence and form a part of it. In a marginal note to Hob., 33, he observes: "no man shall show me a case in law where, by purchase by devise to an heir, any may take that is not heir indeed (4 c, 4 b,) without declaration plain;" which are known to be his words, and his emphatical style. Lord Hardwicke adopted them in Garth vs. Baldwin, 2 V., 655; so did Mr. Justice Blackstone, in Perrin and Blake, Hargr. L. T., 495; and the rule was held by the masters of the rolls, in Cholmondely vs. Clinton, to be the law at this day in England, as it had been from the earliest times. Vid. Fearne. C. R., 213; ib., 29.

It has been adopted in Pennsylvania to its full extent, in the late case of Sloan vs. Hause. Ch. J. Gibson observes: "A well-established rule requires that an implication by which the laws of descent would be suspended shall be avoided; in other words, that the plain and certain disposition of the law shall not be set aside, except in favor of an equally plain and certain disposition of the testator." "The word heirs may undoubtedly be used as a term of special designation, by which a devisee may take in the lifetime of his ancestor, but it is appropriately a word of limitation only; and he who would take by it as a word of purchase must show, clearly and incontestably, that it was used in that sense." 2 Rawle, 32, 33. So in warranties. A collateral warranty descends only on the heir-at-law, or the heir at common law. The Ch. J. Tilghman quotes the following passage from L. 12, a: "And a warranty shall not go, with tenements whereunto it is annexed, to any especial heir, but always to the heir at the common law:" and he applies it to lands in Pennsylvania as it is applied to gavelkind land in England, (9 S. & R., 275,) declaring that it does not descend on the statutory heirs or heirs by custom, but only on the heir at common law in this State. In all the cases which have arisen on the construction of wills, the Supreme Court have given to the word heirs, in all the modes of expression, the same effect which they have by the common law, whether as a word of purchase or limitation, as conveying an estate for life in fee or in tail. Whenever it operates as a word of limitation, the estates descend to the heir at common law or in tail, as the case may be, and not the especial or statutory heirs, according to the act of as-

sembly, the operation of which is confined to cases where an intestate is seized in his own right, both at law and in equity, of an estate of inheritance, descendible to his heirs general. Entails have always existed in Pennsylvania, though opposed to the policy of the State; their validity is recognised by the 37th section of the 2d chapter of the constitution of 1776, (1 Dall., 59,) the act of 1749–50 (1 Dall., 334–5,) and of 1799 (4 Dall., 321, 3 Sm., 338–9;) and the descent of estates tail can be prevented only by a fine and recovery, or a deed pursuant to the act of 1799. Estates held in trust descend to the heir at common law; and a trust estate in land held in joint tenancy goes to the survivor, notwithstanding the act of 1812, (5 Sm., 395.) Before that act, it was a settled rule in Pennsylvania, that where an estate was given to two or more persons jointly in fee by a will, they take as joint tenants, unless there are words which indicate an intention of the testator to give it to them as tenants in common. 5 Binney, 16, 18. Vide Lyle vs. Richards, 326, 76, passim.

We do not deem it necessary to examine in detail the various cases which have been decided in this State on the subject of the descent of lands; the very accurate and valuable digest of Mr. Wharton furnishes, under the appropriate heads, a host of authorities, which fully establish the position of Judge Duncan in the case of Lyle vs. Richards, 9 S. & R., 358.

"It is plain that, from the date of the charter until laws were made to alter the succession, lands descended according to the course of the common law; and not only descent, but enjoyment and purchase, including every other mode of acquisition, were governed by that law—acquired and lost by the course of the same common law."

Assuming it, then, to be the settled law of both countries that the word heir, right heir, or heir at common law, without any qualifying or explanatory words, in a will, are to be taken as words of limitation, it remains to take a view of the cases in which they are words of purchase, or a designation of the person to take by the will as purchasers, and not by descent. Fearne, 79, a, 149, 158, &c.

The test rule to which cases must be applied as they arise is this:—Where the tenure or quality of the estate is altered, the heir of the testator may be a purchaser. 1 W. Bl., 22, and cases cited; Gilb. Dev., 113–14.

If he cannot hold the estate by the mere right of inheritance from his ancestor, as an estate inheritable by law on the death of his ancestor intestate, but must claim in some other character or capacity than as heir-at-law, he is a purchaser; for there being but two modes of acquiring an estate, descent and purchase, he cannot be a purchaser when he would have the estate by descent, or be in by descent when the descent is broken by a purchase. In any given case, therefore, the first question is, whether the person claiming by purchase or devise, is entitled as heir-at-law; if he is, then he takes by descent as heir, and cannot take by purchase as devisee, for the law adjudges him to be in by the elder and the better title. Hob., 30; Gilb., 84; Fearne, 79, 90.

If he is not entitled to the estate as heir, the next question is, whether he answers the description of the person designated in the will as the hæres factitius, or factus, as contradistinguished from the hæres natus or legitimus; if he does, he is in by purchase, otherwise the devise fails, and the estate goes to the hæres legitimus in jure hereditate, as if no will was made. Sh. To., 415; Gilb. D., 84.

These rules are not contested; the only difficulty is in their application to particular cases: it is also an incontestable rule, that the intention of the testator shall be followed in the construction of the words; the only doubt is, what shall be evidence of such intention: it is also admitted that the rule laid down by Hobart is the true one; the declaration of intention shall be plain, not conjectural. To distinguish them, the cases where the intention is manifest by declaration plain, from those where it is ambiguous or conjectural, is the only matter of difficulty.

We fully concur with Lord Mansfield, that "it is to be lamented that questions of this kind have occasioned so much litigation and expense. The best way to settle them is to reduce the matter to some certain rules," (2 Burr., 1106;) and with the supreme court of this State in their opinion delivered by Chief Justice Gibson in 2 Rawle, 32. "The intention of the testator, when sufficiently apparent, is undoubtedly the polar star, and it is sometimes said that precedents serve rather to obscure than to elucidate it. It is to be regretted that this expression has been used by judges whose learning and ability give it currency. In the development of intention, rules of construction, which owe their existence entirely to precedent, and without which no two minds would often, if ever, arrive at the same conclusion, are indispensable to certainty of result, particularly when, as sometimes happens, the judges are called on to suppose an intention when none in fact ever existed. Any settled rule which leads to a determinate effect in comparison with which the fulfilment of any particular intent is of secondary value, is preferable to a process which would destroy everything like stability of decision, and leave titles depending on intention to the decision of chance and the sport of opinion."

Believing such a course of adjudication to be in the spirit of the law, we shall endeavor to ascertain, first, what are settled rules of construction, and then apply them to this case; in doing which we shall not deem it necessary to refer to many cases: the spirit of the law can be better extracted from a few of acknowledged authority, than by a reference to all those which merely recognise well-settled principles, first adopted by courts of law, and uniformly followed in those of equity. Sh. To., 89. The case of Butler and Baker arose on the English Statute of Wills of the 34 & 35 H. 8, and after repeated arguments by counsel and all the judges, this principle was established by their unanimous opinion.

"Because this case doth consist on construction of an act of parliament and of a will or testament, both which are always construed and expounded according to the intent and meaning of the parties thereto,

and not by any strict or strained construction, 3 c, 28 b, or by any strained sense against the letter of the act 31, a. The whole will concerning lands by the statutes ought to be in writing, and no averment ought to be taken out of the will, which cannot be collected by the words contained in the will, 4 c, 4 a, (the case cited by Hobart.) Vernon's case, 5 c, 68 b. Cheney's case. Latelo, 137; 4 Burns, 120. Then in the case at bar, forasmuch as, by the judgment of the common law on the like words in a conveyance, it would be but an estate for life, thence it follows, that the intent and not the words only of the devisor ought to make it an estate tail in this case. Then this intent ought to be manifest and certain, and so expressed in the will, resolved by all the judges of England in Wild's case (6 c, 17 a,) but if the intent does not plainly appear to contradict and overrule the legal construction of the limitation, it never was laid down that it should be overruled by anything but the plain intent, as laid down by Hobart, 2 V., 654. The court ought never to do that, without such plain evidence of intent as is urgent and coercive; if it is doubtful and in equilibrio, according to all the rules the legal construction ought to prevail, 659."

These rules are commented on and explained by Mr. Justice Blackstone in his elaborate opinion in Perrin vs. Blake, 495,–6, the authority of which has never been questioned; by Lord Thurlow in Jones and Morgan, 1 B. C., 216, 223; in an opinion adopted by the supreme court of this State, in Findley vs. Riddle, 3 Binney, 148, 61, all of which accord with the law as laid down by Lord Coke, Hobart, and Hardwicke, without a case to the contrary, and are admirably summed up by Lord Mansfield in the opinion delivered by him in the court of king's bench in Jones vs. Morgan, affirmed in the House of Lords. "Now to truly construe a will, the intention of the testator is to be taken from the whole will together, applied to the subject matter to which the will relates. If the intent is clear and agreeable to law, no matter what words the testator has made use of, the courts of justice, where the questions arise, must model the testator's intent in such a manner as he would have done if he had made use of apt and legal terms. A necessary implication is, that implication arising upon the words used which clearly satisfy the court what was the meaning of the testator. It is put in opposition to conjecture. Conjecture is when you suppose what would have been the testator's meaning if he had had the whole case before him; and what if he had thought of such an event, he would have said upon it. That is a conjecture; but for implication you must find out his meaning whether expressed or implied from his words. If they have an express meaning, and he has made use of inaccurate words, you must construe his words; if they are words of sense, or declarations which are no ways accurate in legal phrase, you must see clearly what is the testator's meaning; and if the testator's meaning is doubtful, if a court of justice cannot say they are satisfied his intention was so, the whole will will be void for uncertainty. Necessary implication, therefore, is that which leaves no room to doubt.

It is not an implication upon conjecture what he would have done in an event he never thought of; that will not do." Fearne, App. 589, 90.

In the case of Packhurst vs. Smith, Lord Chief Justice Willes, in delivering the unanimous opinion of the judges in the House of Lords, thus lays down the law: "It is a known maxim in law that deeds are benignly interpreted ut res majis valeat quam pereat. There is another, that verba intentioni et non e contra debent inservire. It is said in our books, that the construction of deeds ought to be favorable, and as near to the apparent intention of the parties as possibly may be, and as the law will permit. Sh. Touch., 86. That too much regard is not to be had to the natural and proper signification of words and sentences, to prevent the simple intention of parties from taking effect; for that the law is not nice in grants, and therefore it does often transpose words contrary to their order, to bring them to the intent of the parties; for neither false Latin nor false English will make a deed void if the intent of the parties doth plainly appear. I have collected these rules and maxims from Littleton, Plowden, Coke, Hobart, and Finch, persons of the greatest authority. But they are so full of good sense and justice, that they do not want any authority to support them, and I do not know that they were ever yet controverted.

"On the foundation of these rules, whenever it is necessary to give an opinion on the doubtful words of a deed, the first thing we ought to inquire into is, what was the intention of the parties. If the intent be as doubtful as the words, it will be of no assistance at all; but if the intention of the parties be plain and clear, we ought, if possible, to put such a construction on the words of a deed as will best answer the intention of the parties, and reject that construction which manifestly tends to overturn and destroy it. I admit that, though the intent of the parties be never so clear, it cannot take place contrary to the rules of law; nor can we put words in a deed which are not there, nor put a construction on the words of a deed directly contrary to the plain sense of them. But where the intent is plain and manifest, and the words doubtful and obscure, it is the duty of the judges (and this is that astutia which is so much commended by Lord Hobart, p. 277,) to endeavor to find out such a meaning in the words as will best answer the intention of the parties." (Willes, 332,–3.)

When it is said that the intention of the parties shall prevail, if not contrary to the rules of law, it must not be understood as referring to the words used. This is well explained by Justice Blackstone, in the opinion referred to in Harg. Law Tracts, which we adopt as, in our view, a clear and undoubted exposition of the law concerning the construction of deeds and wills. In Ruston vs. Ruston, Chief Justice M'Kean reduces the cases where the rule of law overrules the intention to four instances: 1. Where the devise would make a perpetuity. 2. Where it would put the freehold in abeyance. 3. Where chattels are limited as inheritances. 4. Where a fee is limited on a fee. "In all other cases the intention shall govern, and this intention

must be collected from the whole of the will or writing itself. What, then, was the intention of the testator as expressed in the will?" (2 Dall., 244.)

Justice Buller is very clear and definite on this subject. "It is laid down as clear law, that if a testator uses technical terms, they shall convey the estate according to known rules; but if the testator uses other expressions in other parts of the will, which show he did not mean to use those phrases technically, then the intention must prevail. Then if the words next of kin are technical words in the present case, they must prevail. Every inference that can be drawn is, that the testator used them in the sense that every one understands; and if it does not appear that he used them in some other, that sense must prevail." (Phillipps vs. Garth, 3 B. C., 64, 8.) This case furnished a strong illustration of the rule; the devise was to the next of kin of the testator, to be equally divided between them. It was held that the next of kin according to the statute of distributions should take, but should take per capita, and not per stirpes; the intention being apparent that the distribution should be so made that they should take equal shares. The cases put by Hobart are very clear. "A, having land in fee simple, and part in fee tail, reciting by his will that his wife was dowable of all his lands, devises her the third part of all his lands; yet she shall have but the third part of the fee simple. But if it had been, I give unto her so much of my lands as shall amount unto a full third part of all my lands, it had been otherwise. So (in the principal case of Counden vs. Clerke) here, I grant, that though this devise will carry it but to the very heir, because no other sense appears to the court, yet if I say by my will, I make J. S. my heir, and I give unto my said heir my land; and indeed he is not so much as of my blood, or as it is here, I give to my heir male, which is my brother George Counden. Or if a man have a house or land in borough English, and buy lands lying within it, and then by his will gives his new purchased lands to his heir of his house and land in borough English, for the more commodious use of it, it will be otherwise; for here is hæres factitius or factus, not natus or legitimus; so the intent is certain, not conjectural. (Hob., 34.) For though none can be truly heir but he that the law makes so, yet there is an heir by appellation and vulgar acceptance, which intimates the state of a true heir, (Hob. 75); and therefore, if by my will I appoint that J. S. shall be heir of my land, he shall have it in fee; for such estate as the ancestor hath he shall inherit." (Gilb. Dev., 20.) But in this case he is not the heir in the legal sense of the term; he is made so by the will, as the person designated by the testator to take the place of the heir by substitution. The decision of this case does not make it necessary to advert particularly to the rule in Shelley's case, as to the meaning of the word heir, or to the innumerable cases which have arisen upon it; it will suffice to take the remarks of Lord Thurlow, as a summary of the laws on that point which are adopted as authority in Pennsylvania. 3 Binney, 154, and numerous other cases.

"I take that rule to be, that where the heir takes in the character of heir, he must take in the quality of heir; I take that question always to have been as to the import of the word heir in the proposed case. I never heard it contended that the testator could vary the sense of the law; whether heirs general, heirs male, or heirs female, are to take by those words, they must take in that quality; therefore, you must prove that the second taker was not intended to take in that character, but in some other." (1 B. C., 216.) "All heirs, taking as heirs, must take by descent." (Ib., 219.) The word heirs must be intended as a description of the persons to take by such "declaration plain," as would overturn the legal constructions, or it must be adopted. (Ib., 221, 224.)

There is no difference, in this respect, between wills and deeds, or other writings, on questions of intention, except this: that where the words relate to the quality of the estate, as whether it is for life, or one of inheritance, certain words are necessary in a deed to carry a fee, they must be such as to effect their object by their legal operation; whereas the words of a will operate by intention, to give such estate as appears to have been designed by the testator, the intended effect being the legal effect. (Sh. To., 437, 39; Ser., 352–3.) Where the words relate to the person or persons who are to take under the limitation of the estate, in a deed or will, (Fearne, 89,) the rules of construction are the same; the intention will be anxiously sought and faithfully asserted. The rule, as adopted from Hobart, 277, by all the judges, in Willes, 333, is: "And here, first, I do exceedingly commend the judges that are curious and almost subtile, astuti, to invent reasons and means to make acts according to the just intent of the parties, and to avoid wrong and injury, which by rigid rules might be wrought out of the act." (6 Pet., 739, acc.) The case of Moore vs. Magrath is a strong but authoritative illustration of the principle which the Supreme Court of the United States, in the case of the United States vs. Arredondo, have extracted from the law of construction common to England and this country; (Cowp., 9, 10, &c.) "The words of a grant are always construed according to the intention of the parties as manifested in the grant, by its terms, or by the reasonable and necessary implication to be adduced from the situation of the parties, and of the thing granted, its nature and use." 6 Pet., 640, and cases cited. But while the court will take all these circumstances into their consideration, it must be remembered that it is to carry the plainly declared intention into effect, which must be apparent on the written instrument; when it is so, courts will be astuti in effectuating it from every source of information, and by the most liberal and benign construction; nay, more, they will sometimes give a subtle construction to the words, in order to carry into execution the manifest object and intention of the testator. This, however, can only be done where there is some writing to construe; the intention must not be wholly dehors, it must appear on the instrument in some part of it. The court will examine the whole; the four corners as well as the body. (Sh. To., 85; 2 J. & W., 89.) If it is expressed, however defectively, the court will aid it by extrinsic circumstances,

and be astute in supplying defects and curing all ambiguities which appear. (Vide Sh. To., 86, et seq.; Went. Off. Ex,. 271; Sh. To., 434; Gil. Dev., 21, 112; Fitzg., 236.) In the absence of any apparent defect or inaccuracy of expression, of any potent ambiguity or doubt as to the legal or intended meaning of the words used, they must be left to their legal meaning and effect; when legal words are used, without superadding words of intention which qualify them, or denote an intent to use them in any other sense, the law deems them to be so intended by the testator; to this rule there are no exceptions, either in the construction of deeds, wills, or other writings. (Sh. To., 89, note; Gilb. Dev., 143.) Any other will would repeal the statute of wills, which requires them to be in writing; a will is, since the St. 34 and 35 H. 8, to be taken as a written declaration of the mind, will, or intention of the testator, as to what should become of his estate after his death. Before the statute, it might be by parol as a declaration of uses, (Dy., 53, 6; Sh. To., 399, 415; L., 111,) where land was devisable by custom or tenure; but since then it must be by writing. So is the law of Pennsylvania by the act of 1705. (1 Dall., 53–4.)

In Brett vs. Rigdon, the third point unanimously agreed by the judges was, that a parol declaration of the devisor as to who should be his heir, "was of no effect in law, and that no regard ought to be given to it, inasmuch as it was not within his last will; in which case all that can make the will effectual ought to be in writing. And if the rest which is not in writing is not in law sufficient to make the land pass without the words spoken, then it follows, that the substantial matter which should make the land pass is not written, but rests in words only, and is not within the statute, for no will is within the statute but that which is in writing; which is as much as to say, that all that is effectual and to the purpose must be in writing, without seeking aid of words not written." (Pl., 345, b.) This has remained as unquestioned law to this day. Now as it is very certain that the express and explicit declaration of a testator is better evidence of his intention than any inference of intention to be drawn from circumstances dehors the will, it follows that if the better and highest evidence is not to be regarded, a fortiori, the secondary and conjectural evidence cannot prevail. The whole effect of the circumstantial evidence would be to show in a given case what would have been the intention of the testator had all the circumstances been brought to his mind at the time of making the will, as to whom his estate should go at his death. Surely the case would be much stronger when the testator had explicitly declared his intention in the very case, as was the fact in Brett vs. Rigdon.

A seized in fee of ten acres of land, devised it to H B and his heirs forever; H B died in the lifetime of A, leaving T B his son and heir. A knowing of the death of H B, declared to T B that he should be his heir, and have all the lands devised to H B; the actual intention was undoubted, yet it could not avail to substitute T B as the devisee in place of H B, or to prevent the devise from lapsing by the death of the devisee. (Pl., 341, 5, 4; Burns, E. L., 120–4.) This principle has remained unquestioned, that the in-

tention, which gives efficacy to the will, must exist when it was made, and be declared in the will itself; the words of the testator, which he has reduced to writing, are the testatio mentis, the testament; they are words which are to operate as his mind and will, according to their meaning as explained by himself, if he has given a written explanation of them; if not, the law has given one as the only just standard of interpretation, not by technical rules, which vary words from their common and ordinary acceptation; for heir is no more a technical word or one of art or science, than son, child, brother, uncle, or cousin; they mean in law what everybody who utters the words means, and every one who hears them understands. A man's heir is the person who is the nearest in blood by descent from a common ancestor of the full blood on the father's side; this is its legal definition; it has no other meaning by appellation and vulgar acceptance among men of ordinary capacity or information, as wife, or niece, or relatives. (Gilb. D., 160–1; E. C. A., f. 209; 2d, 290; Gild. D., 10, 13.) It remains to inquire into the time when a will is deemed in law to be the testatio mentis of the testator. The testamentary declaration of his intention, in relation to the disposition of his property after his death, necessarily refers to that event as the one on the happening of which his instructions are to be carried into execution; he speaks in writing, by a paper which is ambulatory, wholly inoperative in his lifetime, but which must be complete and perfect when made. (L., 112, 6 c. 61, 10 c. 80.) The testator must then be of a sound mind, and his will must be executed according to all the solemnities required by law; when so made, it takes effect at his death, and operates as a conveyance and assurance of the real estate he then owned, according to the directions it contains, and of all the personal property he owned at the time of his death. In relation to real estate, it operates as a deed made at the time of execution, but not delivered till after his death; as to personal property, it is considered as dated on the day of his death, for all the purposes of vesting it in his executor. (Sh. To., 401; Swinb., 11; Gilb. Dev., 120, 155; Fitzg., 228.) The common law makes no provision for the descent of personal property, and no man can be heir to goods, for heir is called from *hæridate*. (L., 7, b. 8, a; Fitzg., 245; Hobt., 247, 5.)

Until the enaction of statutory provisions at a comparatively late period in the English law, there was no mode of compelling the distribution of the personal effects of a decedent among his descendants or next of kin; the whole subject was regulated by the civil law, according to which they became vested in the ordinary as the successor to an intestate, and the ordinary appointed an administrator, who was his deputy. Where there was a will, the property vested in the executor as completely as it had been in the testator;(Gilb. Dev., 156; Fitzg., 245,) he represents his person, "and the estate he hath by his executorship is said to be in him, to the use of the testator and his right, and that he doth, in the disposition of his estate, is said to be in the right and to the use of the testator also." (Sh. To., 400–2; Went. O. E., 95.) The will is a declaration of the uses, for which the effects are held in trust

by the executor, for the persons and purposes declared; the statute of distributions is a direction to the executor how to administer the assets. (4. Burns E. L., 58; S. C. Penn, in the Heirs of Girard vs. Philad.) As trustee the legal ownership is in the executor; the next of kin have a right only by statute, (Fitzg., 245,) nor by the civil law could even children claim them by right. After the payment of debts and legacies, the executor held the surplus to his own use; when his trust was executed, he was the legal owner, bound to account to no one: such is the law of England. The law was not very clearly settled in Pennsylvania, till the passage of an act of assembly declaring the executor to be a trustee for the next of kin as to the undisposed surplus. But the law of both countries agrees in this, that the appointment of an executor vests in him the legal right to the whole personal estate of the testator, subject to the trusts declared in the will and imposed by law; and that nothing vests in the heir as such, unless he is one of the next kin, when he is a statutory or special heir, secundum quid, or when he claims under the will as a purchaser of the thing bequeathed to him, and not by any right of blood or inheritable quality. If he is named the executor, the personal property is his, subject to the payment of debts and legacies; the surplus is as much his own, as if a stranger was appointed executor; whoever is appointed as such, has the rights of one, and being the personal representative of the testator, no one can call him to account unless he can make him a trustee for his use. If there are no debts, legacies, or trusts charged upon the personal estate, it becomes vested in the executor as absolutely as it was in the testator; or if the will makes the executor the trustee for the heir, and creates no other trust, the heir has a perfect right in equity in England, and at law in this State, to recover the whole as the general legatee. That an heir may be appointed an executor, or be made a legatee for the whole or part of the personalty; that he may be designated by the term heir, as well as by superadding his name, or by any other mode of description, is a proposition too plain to be doubted; whenever a person is so described by a known term of reference that he becomes known by the appellation, the effect is the same as if A B was added to "my heir." He takes the personalty, not in the character of heir but as executor; and if he is also made a legatee of the surplus, he holds it not in the quality of heir, but of legatee, as a purchaser under a bill of sale executed by the testator, to take effect on his death, or which is the same thing in effect, as though hæres factus of the personal estate. (Sh. To., 460; Sw., 247.)

Now, whether the hæres natus of the testator in the abstract, the hæres natus of his land in the concrete, or a stranger to his blood, is, by his will, the hæres factus of his personalty, neither affects the character or quality of the person whom he has declared shall be the ultimate successor to his effects. By his will he has broken the course of its succession; it no longer devolves on the ordinary; he has declared a trust or use which the executor must execute, and has named the person to whom he shall account, as the designated and intended bene-

ficiary. Nor does it matter whether the real and personal estate are given as distinct funds, or united, as his estate; this word carries his whole right and interest to both, without any words of limitation, if the heir and devisee are the same person; if the devisee would be entitled to the land by the right of blood and inheritance, the will would be so far inoperative that it would not break the course of descent on the well-known principle that an estate shall remain where the law has placed it until the testator changes its position. But this has no effect on the personal part of the estate; the law in the first place separates them in case of intestacy, the one goes to the heir, the other to the ordinary; the will makes the heir the devisee of both, and he holds both, the realty by descent and the personalty by purchase. If the will blends them into one estate or fund, and gives it to one or more persons as heir, heirs, next of kin, or relations, the same person or persons take both by the same description and in the same proportion. This is a settled rule in England and this State, unless there are some words in the will manifesting a contrary intention. (1 V. Sr., 335; 6 S. & R., 43; 11 S. & R., 103, b.)

It is also an admitted principle, that the person named or designated in a will by any known term of reference must be capable of taking by such description at the time the will takes effect; if he dies before the testator, the land passes to the heir, and the legacy sinks into the surplus; and where the term heir is applied in the will as a word of purchase, and is intended to designate a certain person who dies before the testator, the devise lapses, though there may be a person alive at his death who answers the designation, and for this reason. As a will operates as a conveyance of real estate in the nature of a declaration of uses, it can have no greater effect than a deed or other assurance of land; the donor, whether by deed or will, must have a capacity to dispose, a thing to dispose of, and must make a valid disposition of it; before he purchases the land he is not seized to uses, his deed declaring them, could not operate to dispose of the profits or use of the land before the statute of uses, (27 H. 8, Gilb. Dev., 6, 7; Fitzg., 238; 4 Burns E. L., 58, 62; Gilb. Dev., 153, 138, 128, 86;) and no use could be executed in him under the statute before the conveyance. Nor could he dispose of it by will before his right commenced, either by a deed or an inchoate right. As a conveyance or assurance known to the law, neither the deed or will could operate to pass an estate over which the doner had no power or disposing capacity. It could not operate by intention, because the statute of wills requires the will to be in writing, and the statute of frauds and perjuries makes it necessary that there should be three subscribing witnesses to attest it, in order to make the intention effectual for the purpose of passing lands. These solemnities must be complied with after the testator has acquired the capacity of disposing of them, either by a new will, or a republication of one made before the purchase, with such mode of execution and attestation as was prescribed for an original will. If, however, it were a question of intention, the effect would be the same; for when a man

purchases land to himself and his heirs, after making a will devising all the lands of which he should die seized, it is a revocation of the intent expressed in the will, unless he declares it anew by a republication revoking the manifest intention resulting from a purchase to himself and heirs. The devisees could only take by the limitations of the deed if they were the heirs, but could not take as purchasers under the will that which the testator had afterwards purchased as an estate descendable to his heirs by the right of inheritance. (Pl. 341, 5, 3, c. 28; Hobt., 246; Fitzg., 225, 45; and the case of the heirs of Girard, in which the supreme court of this State have revived and re-adopted the settled rule of the common law; 3 c, 30 b, &c.)

In cases of personal property the question cannot arise, for the law does not look to the time of its acquisition; it gives the same effect to the will as if it was dated and executed in his last moments (Fitzg., 239; Hobt., 236, 750; Gilb. Dev., 198, 130, 155;) and speaking in articulo mortis in relation to all that is then owned by him, the testator is deemed to put it in writing, which is all the solemnity required in order to effectuate his intention as to his personalty, which is considered to be of too fluctuating a nature to be the subject of any definite intention till his death. That which he declares in his will continues to attach to it in its ebbs and flows; personal property has no situs in law, other than the domicil of the testator; like his mind and will, it accompanies him wherever he goes, is ambulatory till his death, when it rests in the place of his domicil, and the lex loci distributes it according to the written directions he has made. 1 Binney, 336, 44; 1 Rawle, 317; Pa. 186–7; 1 Pet., 595; 2 Bl. Com., 378

It is therefore immaterial what was the state or amount of the testator's personalty at any time previous to the date of the will; all which he owned passes to his executor in the same state in which it was at his death; yet a very important question may arise as to the person for whom the executor shall hold it in trust; for the will may be so worded as to designate one person at the time of its execution, and another at the death of the testator. The law on this subject is the same as to the disposition of real estate by a deed to uses as by will, and in dispositions by will it matters not whether the property is real or personal, or both; it depends on intention. In the great case of Cholmondely vs. Clinton, the question arose on the following limitation in a deed to uses. A, being seized in fee of an estate which had descended to him from his mother, conveyed it by a deed of lease and release to B, his heirs and assigns, for the use of A for life, and after his death to the use of the heirs of his body, in default whereof to the use of such person as A by deed or will should appoint, and in default of such appointment, to the use of the right heirs of Samuel Rolle (his maternal grandfather) forever. A died without issue or making any appointment, leaving an uncle, his father's brother, and his heir-at-law. At the date of the deed, A was the right heir of Samuel Rolle; at the time of his death the defendant was the right heir of Samuel Rolle; the

plaintiff claimed as heir-at-law under the grantor as seized in fee, and the defendant under the limitation in the deed as a purchaser by the designation contained in the terms "right heirs of Samuel Rolle."

The general rule is well settled; a will refers to the death of the testator, and a deed to the time of its execution, as the acts respectively which consummate and give it effect and legal operation. This is the legal presumption in the absence of a contrary intention, apparent on the face of the instrument; when it is clear the intention prevails; if not clear, the law prevails, and the will declares the uses at the death of the testator, and the deed at the time of delivery.

The actual intention of the grantor was apparent in several recitals, and express declarations of his intention, that the estate should go to the family of Rolle, from which it descended to him; the great question was concerning the legal effect of the deed. It was contended for the plaintiff, that the limitation in the deed being perfectly plain and perfect in itself, the law operated upon it, by legal presumption, so as to revest the estate in the grantor, and make it descendable to his heir at common law, and that such legal presumption must prevail in opposition to the plainly expressed intention; of this opinion were three justices of the king's bench, and Sir William Grant, master of the rolls. (2 B. & A., 625, 40. 2 Mer., 171, 339.) On the other hand, while the rule and presumption of law were admitted, in a case where there was no declared intention to the contrary, to be that the words of the limitation would bring back the estate to the grantor, it was contended, that by the plain declarations of the grantor, in the recitals and testimonial part of the deed, the limitation should be so construed as to mean the right heir of Samuel Rolle, living at the death of the grantor, as a designation of the person to take under the limitation of the deed, and thus to control the legal effect and operation of the words, making them words of purchase by the admitted intent of the grantor, instead of words of limitation by the mere force and legal effect of the deed; of which opinion was Mr. Justice Bailey and Sir Thomas Plummer, master of the rolls. The judges of the K. B. gave no opinions, except in their certificates. Sir W. Grant concludes an opinion, strongly marked with that acumen, legal learning, and strength of reasoning, which made him a most distinguished ornament to the profession, by declaring, as the result of the authorities ending with Bailey vs. Pugh in the House of Lords: "That if there be a person who properly answers the description of right heir, those words cannot be a designation of any other person, although the intent not to apply them to the real heir be perfectly manifest." (2 Mer., 350.)

His successor, Sir T. Plummer, feeling the weight of the great authority in favor of the proposition, examined it through the whole course of the law, as it was to be traced from the earliest writers of acknowledged authority, and by a review of all the important adjudications, and judicial opinions, in all the courts of the kingdom, for two hundred years. His opinion exhibits a depth of research, a profundity of reasoning, and a clearness of deduction from unquestioned

authorities in the law, that is perfectly convincing to our minds. His opinion is too long to be inserted, and too valuable to be abridged or condensed; although it cannot be considered as an adjudication binding on us as evidence of the common law of this State in force in 1777, yet we cannot withhold from it our most decided approbation and entire concurrence in the result at which he arrived. As a most learned commentary on the law of wills and deeds, as a luminous conclusive exposition of the principles of that law, which is common to England and this country; which was established in the time of our common ancestors, and not only adopted on the first settlement of the province, but voluntarily approved by the fathers of the revolution in the first Congress in 1774. They began their struggle for liberty, and the rights of property, by declaring, that the inhabitants of the English colonies in North America, by the laws of nature, the English constitution, and their charters, are entiled to life, liberty, and property; that our ancestors, who first settled these colonies, were entitled to all the rights of freeborn subjects within the realm of England, which they did not lose by their emigration; that their descendants were entitled to the exercise and enjoyment of such as their local circumstances enable them to do; that the respective colonies are entitled to the common law of England, and to the benefit of such of the English statutes as existed at the time of the colonization, and which they have found applicable. (1 Journ. Cong., 28.) This is the same common law which the people of Pennsylvania claimed in 1718 as their birthright, and declared to be the rule of property. In the days of the revolution and patriotism, magna charta, which is one of its emanations, was deemed an inheritance too precious to be succeeded, and its principles, which regulated the purchase and descent of property, too valuable to be displaced by any rules of modern invention.

As men, we cannot sufficiently admire that system of jurisprudence which has been erected on the wisdom of ages, and is most truly the noblest basis of human rights, of property, and peace and good order in society, which, like an all-pervading providence, watches over and protects us and ours by night and by day. The legislative power of the State has made it the rule of our decision, and duty and inclination alike impel us, as judges, not merely to follow the path illumined by its ancient sages, as prescribed by adoption first, and legislative authority afterwards. We do not feel ourselves forbidden to consult the living oracles of the law, or those who have recently departed from the sphere which they enlightened; or to follow them as guides, in searching among the fountains of the law for those principles and rules of property, which now and for centuries have formed the general course of that common law *of* which William Penn introduced, and which is founded on those decisive maxims of right and justice which have been consecrated by the revolution, as well as by our federal and all the State constitutions. If ever the time should come when its rules and principles shall be abrogated, experience will force the country to effect a second revolution for their restoration and perpetuity; for we never can be free without

the institutions of the common law, or be secured in the enjoyment of the rights of persons or property when its maxims and rules are violated. When such an opinion as Sir T. Plummer's is brought under our notice, we shall not care by whom, when, or where it was written; while we perceive in it nothing but the true spirit and conclusions of the law, we shall not hesitate to adopt it, not because we will look to Westminster Hall, either on its parliamentary or judicial side, for the law of the case, as it may appear on their statutes or judgments; but when the great jurists of that ancient fountain of the common law will point us to the course of its streams before the revolution, we shall be able to find the law of the land, and apply it to the case before us according to equity and good conscience. We therefore take the law to be settled, that if a devise is made to the heir, right heir, heir-at-law, or lawful heir of the testator, and there is in existence at his death, or when the disposition of his will takes effect, a person who answers that description, no other person can take, unless by a plain declaration in other parts of the will, the testator has manifested his intention that some other person shall take, and has designated him or them by such description as to enable the court to identify them by the words of the will. When such intent is proved, it shall control the legal operation of the words of limitation used in the will, as expressive of the sense in which the testator intended they should be taken; in the absence of clear proof of such intention, the testator's intention must be taken to be, to use the words in the same sense in which the law uses them; this is the substance of all the adjudged cases in England, which was the common law in force here before the revolution, as we are fully convinced by our own investigations, and the great opinion of Sir T. Plummer, in 2 Jack. & Walk., 65 to 132.

Whether, therefore, this case is to be decided by the law of England or of this State, the result must be the same as settling the law of the case, which we will now apply to the will in question.

We take it by the four corners, as one will, or testamentary disposition of his estate, real and personal, proved and executed according to law, as the last will of a man having full power over it, and a perfect capacity to dispose of it according to his intention, as he has expressed it, without any rule of law which prevents us from giving to his mind and will free action, and adopting it as the rule for our decree.

The will consists of distinct parts, the first of which is as follows:

"These are to certify that I do hereby annul and revoke all my former wills Giving and bequeathing my estate (to my H) Real and Personal to my heir-at-law—first paying all my just debts and funeral expenses and the following legacies," which he enumerates, then dates and signs the will, Philadelphia, 6th December, 1791, the whole of which is in his handwriting. He then adds:

"Least any question should arise about the legitimacy of my birth It is my will that my real and personal estate should go to the party who would be my *lawful* heir in case there might arise no doubt on that head. It is firmly believed by from the best information that my

birth was after marriage." He then dates this part at Philadelphia, on the same day, but does not sign it.

The paper is then folded; on the outside he gives some legacies, states the items of his property in England, under the same date. The endorsement is as follows: "The last will of Matthias Aspden. I *do hereby* appoint my friends, Mr. George Roberts and Mr. Abraham Liddon, with the president of the old bank at the time being, to be my executors to this my last will. Matthias Aspden."

The will appears to have been deposited in the Bank of North America on the following day, in the cashier's vault, where it remained till the death of the testator, in 1824.

That the declaration of the testator was prospective, referring to the time of his death and not its execution, is evident both as a matter of law and intention; for he expressly declares it to be his will, that his estate shall go to the party who would be his lawful heir in case there might be no doubt of his own legitimacy; that doubt could only arise after his death. If he had left the first clause as the only declaration of his intention, and it had appeared that he was illegitimate, he could have no heir, and his estate would escheat; taking the two clauses together, the intent plainly is, that after his death his whole estate should go to the person who was his heir-at-law, or lawful heir, if he was born in lawful wedlock, and could have one; and to put an end to the legal effects of illegitimacy, he declares his will to be that the party who would be his heir, if he was capable of having one, should be his heir by virtue of his will in any event. The only difference would be this, if the testator's birth was legitimate, his heir would take the real estate by descent; if illegitimate, he would take by purchase under the will, which would break the course of descent to the State as the last or ultimate heir by escheat, as the original lord of the soil from whom it was held. (Cow. L. Int., tit. Heir.) This would bring the case within the admitted rule, that a devise to an illegitimate person by the appellation of son, who was so by reputation, is good, (L. 3;) but here the testator does not leave his heir to be ascertained by evidence of reputation; he designates the party whom the law declares his heir, if there was no doubt of his legitimacy.

The law speaks in the words of Littleton, s. 2. "And if a man dies without issue, he which is his next cousin collateral of the whole blood, how far soever he be from him in degree, may inherit and have the land as heir to him." At the death of the testator, John Aspden, of Lancashire, was his next cousin collateral of the whole blood, and his heir-at-law; he was the person to whom the land would go, by the course of the common law, as his lawful heir.

The will speaks only of the heir in the abstract, without any reference to the person who would be the heir to his estate, real or personal; he means that both should go together to the same person; the two parts, real and personal, are to go as one estate, which he gives and bequeaths to his heir-at-law, subject only to debts and legacies. The first movement of his mind appears, by the erased words, to have been

not to mention real and personal, but to state simply, giving and bequeathing my estate to my heir; he however altered it, and in both clauses declared his will to be, that both real and personal should go to the same person. The word party is a word of single reference, unless it is otherwise applied; it is here evidently intended for one person, and that person who would be his lawful heir or heir-at-law; the party so related to him by blood, that his estate would, in the common course of descent, devolve upon him by operation of law as his heir, his hæres natus et legitimus, if the testator was himself legitimus, and if not, then as hæres factitius or factus, by the effect of the will, as a written declaration that he meant the same person, and that the whole estate should vest in him at his death.

As words of designation, or description of the person to take, they make an identification which cannot be mistaken, and whether their effect depends on the intention at the date of the will, or the time of the death, the mind of the testator is equally manifest; my will is, that my personal and real estate should go to the party who would be my lawful heir; on his death, his real estate would vest immediately in his heir, either by descent or purchase, and the executor would become his trustee for the surplus of the personal.

It is manifest that the testator did not mean that his estate should be divided into real and personal after his death; he united them, and the court cannot sever them without a direct violation of his declaration plain. Had he said "to the party who shall be the lawful heir to my estate, real and personal," we might have construed these words as intended to apply, reddendum singula singulis, and awarded it to those respectively who would have been entitled by the statute of distribution or the common law. But the testator has left us no room for construction; we cannot adjudge that heir simply is heir according to, when the testator has twice declared that he means his heir, heir in the abstract; and when the law points to the person who has that character and quality, as plainly as if the testator had said, my cousin, John Aspden, the eldest son of Thomas Aspden, who was the eldest son of my father's brother, William Aspden, who dwelt in Great Harwood, in Lancashire, in old England.

The testator has not given the slightest reason for our belief, that he intended to leave his estate to such person as the laws of Pennsylvania from time to time direct to be the party or parties to whom the estate of an intestate should go; nor can we interpolate into the will an intention, that, during the thirty-three years in which his will remained unchanged, the disposition of his property should depend on the varying laws of the State. In 1791, he declared what his will, his last will, was, and the law repeats the declaration for him in articulo mortis, as effectually as if he had then taken it in his hand and declared this is my last will; his written declaration of the 6th December, 1791, is to all intents and purposes as much an expression of his intention in 1824, as if then written again, or at any intervening period, so far as relates to his personal property.

It being admitted that there is in existence a person who completely fills the description of heir, both by the law of the land and the law of the intention of the testator as declared by himself, we shall supersede both if we substitute in his place any person, or classes of persons, who do not answer that description—persons who, by the law of England and of Pennsylvania, are as clearly distinguished from an heir-at-law or a lawful heir, as a half-brother is from a second cousin.

John Aspden of Lancashire, England, the second cousin of the testator by the father's side, of the full blood, is his heir-at-law, the lawful heir; the testator gave and bequeathed his estate, real and personal, to his heir-at-law, and declared it as his written will, that his estate, real and personal, shall go to the party who would be his lawful heir. Now, the question arises, whether he intended his estate should go in bulk to his half-brother, Roger Hartley, living in Lancaster county, Pa., to his sister, Mrs. Zane, living in Haddonfield, the children of his half-brother, Benjamin, and his half-sister, Ann, by the mother's side, and the descendants of his half-sister, Mary, on the father's side, to be divided and apportioned among them by the English or Pennsylvania statutes of distribution, in the same manner as if he was of legitimate birth, and had died without a will; or to his relations descended from his grandfathers, Aspden and Packer; or to his cousin, John Aspden, who was his undoubted heir-at-law. The legal meaning of the words is clear, and there are no explanatory words denoting an intention to use them in any other; by every rule, then, the legal meaning must prevail, not only by operation of law, but the declared intention of the testator; no other meaning can be inferred from them, for no other is even denoted; and whatever the intention may be, if there are not words in the will to warrant it, either express or implied, it cannot have effect. (1 V. Sr., 294.)

When this will was made, there was no person in existence who was in any sense the heir of the testator or his estate, except the true heir at common law; if he had died in 1791, his estate descended according to the course of the common law, whether he died intestate or left a will, for then no law had altered it; the act of 1705 used the very words of this will—heir-at-law—lawful heir, in contradistinction to "the next of kindred." (3 Sm., 157, sect. 2, sect. 8, 12.)

This heir was the person whom he put in his place, and the one whom he designated to take from his personal representative, and enjoy to his own use the surplus of the personal property which held in right of the testator, and for the uses of his last will; to substitute any other would be repugnant to the will, by according to A what was expressly given to B.

When this will took effect, the intention of the testator was the same as when he signed it; the law of England remained unaltered, and the law of Pennsylvania had been changed; so that the 11th sect. of the act of 1794 would have made the brothers and sisters of the half-blood, and their lawful issue, the special or statutory heirs of the testator. Yet it made no provision for the succession to his person

estate; the 12th section being, by the universal opinion of the bar and bench, applicable only in case there was no issue of the half-blood alive at the death of the intestate, his personal property was distributable by the English statute of distribution. (2 Yeates, 545.) Had Matthias Aspden died after this law, his real estate would have gone to his next of kin, by the 11th section, as the statutory or special heirs by the law of Pennsylvania, and his personal estate to the same persons under the law of England in force here by adoption.

In 1797, a new law was passed to meet the cases excepted in that of 1794, so far as the legislature thought proper to do it. The 7th section provided for the case of an intestate dying without issue, or brothers or sisters of the whole-blood, or their representatives, but leaving brothers and sisters of the half-blood, to whom the whole estate, real as well as personal, should go; it wholly omits, however, any provisions for the descendants of the half-brothers and sisters; they are, therefore, neither heirs at common law, or by any statute, and in case of intestacy would be entitled only to their distributive shares, as the next of kin, under the statute of distributions, in the character and quality as such, and not as heirs, general or special, to the real estate.

If, then, the testator had died before 1794, his whole estate would have descended according to the general course of the law of England, as the adopted law of Pennsylvania; if he had died after 1794, and before 1797, his real estate would have gone to his brothers and sisters of the half-blood, and their lawful issue; and dying at any time after 1797, his brothers and sisters of the half-blood would take his real estate. But their descendants would take nothing under the act of assembly if the half-brothers died in his lifetime; his real estate would go to his heir-at-law, and his personal to his next of kin. Such would be the descent of his estate, at the three different periods, by the law of Pennsylvania, if he had made no will. Was it his intention that it should go accordingly, and had he no other object in making his will, than to give legacies to his favored relatives, appoint executors, remove all impediments, and then leave his whole estate to be distributed according to the law of this State, to and among such persons as were entitled to it, not in right of inheritance as his heirs-at-law, without reference to the nature of the prroperty?

To these questions the first answer is, that he has declared no such intention, and none such can be inferred from his words. The next is, that no person can take under this will, unless he is clothed with the character of heir-at-law; and if he takes in that character, he must take in that quality, as the heir of the testator, by lawful descent, to his real estate, as the person whom he has designated as the heir to whom his whole estate shall go as one entire fund.

The rules of law put it out of the power of a testator to make his own right heir, or his heir-at-law, a word of purchase, to break the course of descent; not because he may not do it by words denoting such intention, but because such intention cannot be legally inferred from the mere use of the term. The next of kin are in no more sense his

heirs in the character of next of kin, than strangers to his blood; they can be made heirs or hæri facti, in no other way than first by words of purchase, and next by words of description applicable to themselves as purchasers of the estate. There is not one principle in the law, not one rule of construction, or one case in the books, which would justify us in inferring an intention to give an estate to the next of kin under a devise to my heir-at-law, my lawful heir, or any other term of equivalent import; not only so, there is not a rule or principle applicable to the subject that we should not violate, or a case that we should not overrule in so doing.

If we should declare that the testator did not mean to dispose of his whole estate in mass, by virtue of his will, but intended that what remained after the payment of debts and legacies, should be disposed according to the intestate laws of Pennsylvania, we should directly contradict two express solemn declarations of his intention, written by himself. "These are to certify, that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and personal, to my heir-at-law." Who gives and bequeaths? I, Matthias Aspden. How is it given and bequeathed? Not by my clearing away the obstructions which may impede the inheritable quality of my blood, and leaving the legislature of England or Pennsylvania to dispose of my estate by appointing an heir for its different parts, or as an aggregate, I do it hereby, by this my last will, which I leave behind me as a guide and direction to my executors. This is what I certify. I certify it by these, these presents, this will; and least any question should arise about the legitimacy of my birth, these further certify, that it is my will that my estate, real and personal, should go to the party that would be my lawful heir in case there might arise no doubt on that head. This is the testator's own definition of who is his heir-at-law, to whom he had given and bequeathed his whole estate by these. Hereby, by this, my last will, my heir is the same as another man's heir, in right of inheritance, by lawful full blood, flowing in my veins, from one common paternal ancestor.

Nothing is left for presumption or construction, in face of this solemn certificate, and repeated declaration of intention; it negatives all belief that he meant to leave his estate to be disposed of by the will of any one but himself, or that any one was intended to be his heir but the one who was made so by law in right of blood. Nor can we be convinced that it was his intention that, while his will remained unaltered for thirty-three years, his own disposition of his estate should be subject to the changes in the law of the State from time to time.

But had this been in his mind it would make no difference; for in 1824 he had no half brothers and sisters alive, and the act of 1797 making no provision for such case, his heir-at-law, his lawful heir by the common law of Pennsylvania, was John Aspden, of Lancashire, England, who would have inherited his real estate, and his personal property would have been vested in the administrator appointed by the register, in trust for the next of kin, according to the law of England. The

effect of his will is to leave the real estate to descend to his devisee as if no will had been made, and as to the surplus, to appoint an executor, with directions to pay it over to the person whom by his will he had substituted as his beneficiary in place of his next of kin; this person was designated by a well-known and understood term, which the law of both countries fastens on John Aspden, as indissolubly as if he had been especially described by name, birth, residence, and occupation. The next of kin to Matthias Aspden are no more his heir-at-law, or his lawful heir, than Roger Hartley, of Lancaster county, Pennsylvania, is John Aspden, of Lancashire, old England; and we should as completely subvert and pervert the law of the case, whether it was in the law of the land, or in the intention of the testator, by making the next of kin the heir-at-law in virtue of this will, as by construing its directions so as to make John Aspden read Roger Hartley or Samuel Packer.

The whole foundation for presuming such an intention, is wholly dehors the will; and if the terms of the law which have been adopted by the testator, which have for centuries admitted of and received but one determinate meaning, are to be disregarded, there is no reason why we should adhere to names; if we decide that a testator may not designate his devisee or legatee, by a term as well known and understood as that of son, brother, or cousin, we should strain at gnats, in paying respect to Christian or surnames, or to the ordinary "terms of appellation and vulgar acceptance" (Hob., 75,) by which our relatives are known in all their ramifications. When a court converts itself into a testator, and substitutes its conjectures of the intention of the one who made his own will, for his written, plain declarations; or if, when they are unambiguous, the court construe them otherwise than by the rules of law, or give weight to any doubtful circumstances to vary the writing, we must forget the settled and unalterable laws of the land, and the legislative authority of the country must devise and enact a code for our guide, similar to one referred to by Justice Blackstone in his celebrated argument in Perrin vs. Blake, entitled, de conjecturis ultimatum voluntatum. As the law now is, the words of this will have a meaning which cannot be changed by judicial power: we are satisfied, from the whole will, that the testator intended to use them in the same sense, and that, as words of law or intention, they directly point to and rest on his second cousin John Aspden, it follows, that they cannot be applied to his half-brothers and sisters, or their descendants. He has directed his whole estate to go in the same direction to one person; it would be judicial legislation in us to divide the estate, if it exists separately, or to divide the intention and words in such a manner as to make a direction to unite realty and personalty into one estate, a declaration plain, that they should be separated, and one part go not to his heir but to the different stocks of his half-brothers and sisters.

No case has been referred to by the counsel for the next of kin which leads to any other conclusion than that at which we have arrived. An expression of the late chief justice, in French vs. M'Ilhenny,

2 Binney, 20, has been cited. "I think the principle of not disinheriting the heir without sufficient words ought if possible to be more strictly observed here than in England, because there the eldest son is the heir, but here the law is more equitable, and the children together are considered as heirs."

This is undoubtedly true, but it is only so in a case embraced in the act of assembly, where a class or stock are heirs by force of the local law, as in gavelkind; the chief justice means, that when there are children, no one of them is heir-at-law, because they are all heirs by special law, and the estate shall not be taken from them, without sufficient words to give it to one, as appears by the case; which was a devise of one-third of my plantation to my nephew Robert. The question was, whether it was for life or in fee; the court held that he took an estate only for life, for the want of words indicating an intention to give the whole interest of the testator, though the court thought a fee was probably intended. "But as this is only a conjecture, I know not how to get over a principle which seems well established, viz., that the inheritance is not to be taken from the heir, unless the devise contains proper words to create a fee;" or unless, in some other parts of the will, an intention is manifested inconsistent with a less estate. "If the intent is doubtful, the rule must take place; so must it if the court cannot find words to carry a fee, though they have no doubt of the intent." (Ib., 19.) "But I can find no words which can be so construed without breaking down an established principle, and thus opening a door for uncertainty and confusion." (Ib., 21.) This case is therefore a direct affirmance of the rules before laid down, and is conclusive to show, that—the law of this State is, that the heir by common law, or the heirs by act of assembly, shall take the estate, unless the testator has used words which show a clear intent, and can be construed to take it from them.

The case of Hall vs. Vandegrift (3 Binney, 374,) covers the whole case. It was a devise to my kinsman S H and his lawful begotten heirs forever; the court held it an estate tail; it broke the descent by act of assembly, and unless the entail was proved by S H, the estate would pass to his eldest son and heir by the common law, as his lawful heir. The court considered this to mean lawful issue, and "that lawful begotten heir" meant the same as "heirs lawfully begotten;" the words for ever are properly applied to an estate tail, because an estate tail may continue for ever, and was at common law a fee simple of a particular nature. The chief justice answers the objection, that the devise is to the lawfully begotten heir, not heirs, by the case of Whiting vs. Whiting (1 Bulst., 219,) which was a devise to A forever, and after his decease to his heir male forever, and was adjudged an estate tail. "It is then said that heir male and heirs male is all one, because heir is nomen collectivum" (Ib., 381-2,) which point the chief justice declared was sufficiently clear. The testatrix was an unlettered person, and "the defendant's" counsel think it unnatural that an ignorant woman should take it into her head to create an estate tail; I

agree with them that she might not think of an estate tail, because she probably did not know what it was; but it was very natural that she should wish to limit the estate to the issue of the devisee. The desire of confining property to a particular family seems deep rooted in the human breast. From whence this passion springs, which delights in exercising a kind of dominion over property after death, it is unnecessary to inquire. But the fact is, we see it prevail in people of all conditions." (Ib., 384–5.)

Justice Yeates remarks that "the law will execute their intention, if it can be plainly collected from the expressions they have made use of. (Ib., 385.) The pronoun his, coupled with the other words, has the same signification as by him lawfully begotten, negativing the idea of collateral heirs; and heir in the singular number would seem to point to the individual heir at common law, claiming per formam doni, in contradistinction to the rules of descent established by our acts of assembly." (Ib., 386.)

These positions are fully sustained by subsequent cases. In Coster vs. M'Michael, the devise was to A for life, then to the heir male of his body, lawfully begotten, and the heirs and assigns of such heirs or heir male forever, it was held an estate tail. If A took for life, and his heirs male by purchase, the estate would go after his death to his eldest son in fee, but that would defeat the testator's intent, which was that all the sons should take. There are no words which would justify a construction, that if there were several sons, they should take as tenants in common in fee. The estate is given to the heirs male, and as there can be but one heir male at one time, the eldest son must take it. (10 S. & R., 431.)

In Amelong vs. Dorneyer, the devise was to my son J. D., to hold forever, and if he die without heirs, to my son John Jacob, in the same manner. This was an estate tail, because J. D. could not die without heirs if he had brothers living. The testator by heirs meant heirs of the body, though on the death of J. D., J. J. would be his heir, but the heir of testator. If the devise had been to one, who could not by any possibility be the heir of the first devisee, the subsequent limitation over, would not alter the preceding positive devise in fee, and the court would not restrain the general import of the word heir. (16 S. & R., 325–6.)

So in this case; as the next of kin of the half-blood could not be the heir of the testator, the general import of the words cannot be restrained; they must have their legal effect according to the law as settled in England, from which our ancestors brought with them the general system of our laws, of which there can be no clearer evidence than is found in the opinion of the Supreme Court in Caskey vs. Brewer, delivered by Huston, Justice: "and I still believe that, in the event of the devisee having children, this construction, which I consider settled in this State, produces an effect contrary to the intention of the testator, in the respect mentioned almost invariably. But I think it ought not to induce this court to change the current of decis-

ions." (17 S. & R., 443.) From this observation, we may fairly conclude that this learned judge had surrendered the doubts expressed in a former case (17 S. & R., 115,) to what he deemed to be the settled course of adjudication in Pennsylvania, which are in precise conformity to the English rule as agreed by all the justices in Clerk vs. Day. (Cr. E., 313.) "That a devise to one and the heir of his body is an estate tail, and shall go to all the heirs of his body, for heir is nomen collectivum, and one can have but one heir at one time, and this shall go from heir to heir."

The case of Chadach vs. Cawley has been cited as supporting the opposite doctrine; there the testator devised separate parcels of land to his sons A and B, and their heirs forever, and then said, item, I will that the survivor of them shall be the heir to the other, if either of them die without issue The second part corrects the first, and makes it but an estate tail. (Cr. Jac., 695–6.) The principle of the case is correct, but it militates with no other, and has no other application to this, than to show the legal effect of the word heir, when referred to the specific land which had before been devised in fee. To make it applicable here, the devise should have been to his heir-at-law or lawful heir, with a reference to such part of his estate as would descend to one heir by the first clause, and to another in the second, so as to change the devisee from the heir-at-law to the next of kin.

The case of King vs. Melling contains the case put by Lord Hale, a devise to one for his life, and after his decease to his heir, that hath been held a fee, for heir is nomen collaterum; but Archer's case is a devise to A for his life, and after to his heir, and the heirs of that heir; then, because the words of limitation were put to the heir, therefore heirs were taken to be but words of designatio personæ, and resolved he should take by purchase. Lord Hale adds, construction must be according to the express words of the will. (1 Vent., 215–16.)

The authority of Archer's case, 1 c. 66, is universally admitted, as stated by Lord Hale; in that and the other case heir is a word of limitation; when there is no limitation grafted upon it, as a stock of inheritance, as a devise to A for life, then to his heir, it denotes the estate granted to A to be a fee; but the limitation to the heirs of his heir, by the same rule, denotes the estate, which the heir of A takes, as a purchase to himself and his heirs. In such case the word heir of A is a description of the person who is to take the estate of inheritance, which is to descend from him as the stock of descent, instead of his ancestor, to his heir, and from heir to heir, as nomen collaterum, denoting descent from the heir of A as the first purchaser of the inheritable estate, which goes to his heirs, and not to those of his father. Heir simply, as in the devise to A and his heir, is therefore considered as enlarging the life estate to a fee, descending from heir to heir; and in the other the words heirs to the heir of A, as operating to like effect on the estate of the heir; the words heir in the first and heirs in the second limitation, being of the precise import as a nomen collaterum, according to all the preceding cases referred to.

It is, however, contended that the word heir has a different meaning in relation to the personal property, although the devise is of real and personal estate; for which the opinion of Lord Hardwicke, in Sheffield vs. Orney. (2 Atk., 228.) As laid down by him, this at that time was deemed unquestionable; he says, I think it very reasonable to take words in a different sense with regard to the different estates, to support the intent of the party, ut res majus valeat quam pereat, as laid down in Forth vs. Chapman, 1 P. W., 663–6;) the case put is this: "If I devise a term to A, and A die without leaving issue, remainder over, in the vulgar and natural sense, this must be intended—if A die without leaving issue at his death, and then the devise over is good; that the word die being the last antecedent, the words (without leaving issue) must refer to that. Besides, the testator, who is inops consilii, will, under such circumstances, be supposed to speak in the vulgar, common, and natural, and not in the legal sense," (ib., 666;) "and if the words of the will confer two senses, one whereof is more natural and common than the other, it is hard to say a court should take the will in the most uncommon sense, to do what? destroy a will," (ib., 667.) The legal sense of dying without issue, is whenever there is a failure of issue; this is in favor of the issue, that such may have it, and the intent take place in case of a freehold; but in case of a term for years the words cannot be supposed to have been intended in favor of such issue, since they cannot by any construction have it, (ib., 667, 8; vid. 1 P. W., 109, 432, 564–5. The distinction is taken to prevent the devise being void, on account of its being a limitation to take effect after the indefinite failure of issue; it does not turn on the meaning of the word issue, but the time to which the failure of issue shall be applied; it therefore can have no application to this case on any point; for here the question is not whether the devise is void; it is admitted there are persons who are capable of taking the personal estate; the maxim, ut res, &c., does therefore not apply. Besides, the word heir-at-law or lawful heir, is not a term which is or can be taken in a double sense, without other words which there are not in this will, or any words of limitation over. This case does not require a detailed examination of the cases in which this distinction has been taken, or whether any such rule exists now here or in England. Lord Kenyon asserted distinctly in 3 D., 146, (Vid. 15 S. & R., 148,) that it was not founded in law, and that there was no distinction between real and personal property; and in Williamson vs. Daniel it was decided, that in case of a bequest of slaves, the legal sense should prevail, unless restrained by the words of the will. (12 Wh., 569.) Where the words of the devise apply to the person to take, as in Pyott vs. Pyott, where real and personal estate was devised to his nearest relations of the name of Pyott, and his or her heirs, &c., forever, Lord Hardwicke remarked, "then the court being upon a question of construction, who are the persons designed, the involving the personal in the same trust and devise, is a circumstance determining the construction as to the real, affording a proper key to find out who are the proper persons designed to take un-

der this description, for the testator must have had but one intention;" (1 V. Sr., 337;) the same principle is affirmed in 8 S. & R., 43, and 11 S. & R., 103; in the latter case the court observe, "if the real estate goes to heirs, as it has been determined (9 S. & R., 43,) the personal estate passes to the next of kin. This will be directly opposed to the will of the testator. He devises both in the same clauses, and to the same parties, (ib., 104.) Relations, ex vi termini, mean next of kin, and is applicable to personal estate; it is a term inapplicable to real estate; but then, as the testator had no different intention as to his real and personal estate, the word, in order to effectuate the intention of the testator, must apply to that class denominated next of kin, who take as persons designated in both cases. It is necessary to have some rule; there can be none better than the rule of distribution under the statute; considering that as an indication of the testator's meaning, that by relations he meant next of kin; and if we do not go by this rule, then we declare the will void for uncertainty as to the real estate, or the court make a new will for the testator. I am of opinion the real estate passes to the same persons that the act of distribution is to govern, and the real estate to be divided in the proportion the personal estate was by the former judgments of the court," (ib., 106.) Comment is unnecessary to show the conclusive application of these cases to one before us.

Loveday vs. Hopkins turned on the intention of the testatrix as manifest in the words of her will, which contained two clauses—"Item, I give to my sister Loveday's heirs £6000." "I give to my sister Brady's children, equally, £1000." It was held that the intention of the will was the same in both clauses, intended for the children, and not for their descendants; or, if the descendants of the children were intended, she had not so expressed herself that the court could construe the will so as to let them in to take. (Amb., 273–4.) The Supreme Court adopted the same principle in the case of Walker vs. Griffith, (11 Wh., 375,) but it does not affect the general rule. Lowndes vs. Stone was a devise of "his estate and effects to his next kin or heir-at-law, whom I appoint my executor," &c.; it was considered as a question of intention; no case was cited in the argument, and the Lord Chancellor simply said, "you have a fair retort on each other; on one side it is contended that next of kin means heir-at-law; on the other, that heir-at-law means next of kin." It must be distributed according to the St., 22 and 29 Car. 2, 4 V., 649–50. This case established no rule; it was one sui generis, and can be no precedent.

Foster vs. Sicora was a devise of the rest, residue, and remainder of my real estate to my right heirs on the part of my mother; the case was deemed too clear for argument. The chancellor asked, "how can you make a person take under the denomination of heir who is no heir? I cannot raise a doubt upon this point, for when a testator devises to the right heirs of a particular person, the law fixes who is his heir." (4 V., 966–8.) This case requires no comment. In Holloway vs. Holloway was a devise of £5000 to trustees to his daughter for life, and, after her decease, to such child or children of "A, his

daughter, as she shall leave at the time of her decease, in such proportions as she shall think proper; if she dies leaving no child, then £1000 for the executor of his daughter, and the remaining £4,000 for such person or persons as shall be my heir or heirs-at-law." The testator left his daughter A, and two other daughters who were his heirs-at-law and next of kin. The master of the rolls admitted "that, prima facie, these words must be understood in their legal sense, unless by the context or by express words they plainly appear to be intended otherwise." The devise to the daughter for life, &c., giving it to the heirs-at-law, of whom she would be one, would not alone be sufficient to control the legal meaning of the words, and he decreed accordingly. (5 V., 399, 404.) This case, therefore, is a direct affirmance of the preceding ones to their full extent, and his obiter opinion as to the effect of a devise of personal property alone to a man and his heirs, would not apply to a devise of real and personal as one estate; but whatever weight may be due to this dictum, if the point was new, it cannot be allowed to overturn the uniform current of authorities from the earliest time. "If a man hath a lease for years, and deviseth by his will, that I, his son, shall have the residue of his years unto him and his heirs, it is said that the heir of I shall have it, because the will of the devisor is that his heir shall have it; and also because, in this case, the word heir shall be taken as a name of purchase, and his heir shall have the remainder of the term by force of the devise." (Perk., 558, cites 34 H., 6, 6, 8 sect., 659; S. P. Sh., T. 446, S. P. & S. C.) It was not used to denote succession, but to describe a legatee, and there was no context to explain it otherwise, as is observed by the master of the rolls in Mounsey vs. Blamire, in which case he held a devise "to my heir of 4,000," meant heir-at-law, and not next of kin. (3 Cond. ch. R., 718.) Gwin vs. Maddock is full to the same point; it was a devise to A of his real and personal estate for life, and my nighest heir to enjoy the same after her death. The master of the rolls held that the heir-at-law and the next of kin could not both take, the one real, and the other personal; that in that case the testator did not mean that, for he blends all the real and personal estate together. As both are to be enjoyed together, it is absolutely necessary for the court to say who should enjoy both. It would be contrary to the intention to divide them, and it would be contrary to the words to give the whole to the next of kin. Therefore the court have no alternative but to adhere to the words of the will, and permit the person who answers the description of heir-at-law to enjoy the whole. (14 V., 488–90.)

Vaux vs. Henderson, (1 Jac. & Walk., 338,) was a devise to E. V. of $200, and failing him by decease before me, to his heirs, the master of the rolls decreed it should go to the next of kin of E. V. living at the time of the testator's death: no reasons are given for the decree, which appears to have been in some measure influenced by the situation of the family of V., and the provisions of his will; it neither

established any new nor overruled any old rule, and can therefore have no effect on the questions involved in this case.

From all these cases we are abundantly satisfied that the law of this case is definitively settled, both in England and this State; and we can have no hesitation in expressing our most decided opinion that John Aspden, the heir-at-law of the testator, is entitled to the whole of his estate by the fixed rules of law, which we are not at liberty to question. It only remains to notice some circumstances connected with the situation of the testator, his estate, his family connexions, and domicil, which have been strongly pressed upon us as reasons for construing his will otherwise than by the rules of law.

It is said that he had no real estate, and therefore the words of his will ought to be referred to his personal estate only; if the fact were admitted, the conclusion would not follow; for there is no adjudged case in all the books, and not even one dictum, where a devise of an estate real and personal has been so construed; besides, it is by no means a settled point that he had no real estate.

By his father's will he was a devisee of a lot in this city, and a farm in Chester county, which he does not appear to have alienated; and it may be presumed that he held it at the time of the attainder. It is not necessary to inquire whether the attainder was consummated or was valid; he may have thought that the title had not passed from him, and that he would leave it to his heir to contest the validity of the proceeding, though he himself would not. Neither is it certain what estate he took under his father's will; if he had only a life estate, the attainder would not affect the reversion; connecting his father's will with his own, he appears to have had a perfect knowledge of the different branches of his relatives, and may have been influenced by his father's attachment to his uncle William and his children; this circumstance would rather favor the belief that his actual intention to give his estate to the heir of the family corresponded with the words of the will.

His father had made a provision for Mrs. Harrison, and the son gave legacies to such of the Hartleys as he chose to provide for; it is therefore very probable, that he actually meant to give the residue to the Aspden branch, to whom his father devised the one-half of his share on his death, under age, and without issue. It is more reasonable to conjecture that such was his intention, than that he did not intend they should have any portion of even his paternal estate, real and personal, which his father intended to be divided between the children of his brother William, and his daughter Mrs. Harrison, whom he named as alike the objects of his bounty. There is nothing, then, in these circumstances that bears adversely on the words of the will, and the plain intent therein manifested; nor is there any fact disclosed in the evidence that tends to show a different intention: we can pay no regard to his declaration, testified by Bathsheba Thompson—that he would leave his money to his aunt and her children. (Vid. Rep. No. 1, p. 7.)

So far as any inference can be drawn from the place of his domicil, or residence, it favors the belief that his intentions were to use the words in the English sense, without any reference to the law of this State or their understanding here.

With the exception of three visits, he had resided in England for forty-nine years; from the evidence of Bishop White, it appears he was desirous of remaining in this country after the treaty of peace, but was apprehensive for his personal safety; and notwithstanding the opinion of Mr. Ingersoll to the contrary, he went to England again in 1786. There is no evidence that in his subsequent visits he ever domiciliated himself in any particular place, or ever expressed any intention of returning to this country for the purpose of permanent residence; his declaration to Mrs. Thompson, that he had come over after some money that he had left in the hands of his step-brother James Hartley, who would not give it up to him, would have much weight if the matter was doubtful. But we cannot hesitate in thinking, that he was domiciled in England, where he died, and where he had lived from the age of nineteen. A matter which appears in his answer has been much relied on as his own declaration as to his domicil; he entered himself on the books in which his stock was registered as Matthias Aspden, of Philadelphia, North America; but this was evidently to avoid the payment of the tax on stock owned by residents of the kingdom.

This also accounts for his executing his will, and leaving it here to be administered by executors resident here, so as to keep up appearances; had he made his will in London, and left it to be administered by executors there, and this had been known in his lifetime, it might have exposed him to some penalty; his stock would certainly have been liable to taxation, and to an assessment after his death.

Thus, so far from any of these circumstances operating on our minds as reasons for doubting his actual intention to be in conformity to his will, they confirm the view we have taken of it; as they were much dwelt on in the argument, we have briefly noticed them; but as these, or any other which appear in the evidence or pleadings, would only lead to a conjecture as to his intention, we dismiss their further consideration.

We have no doubt that John Aspden, of Lancashire, England, is, in law and justice, entitled to the surplus of the personal estate of the testator in the hands of his executor, the respondent; we decree that he account to him accordingly, and that the costs of this suit be deducted from the fund. As to all other parties who are claimants before the court, either by bill, petition, or otherwise, their proceeding is dismissed, without costs.

And thereupon the said court make and pronounce their final order and decree, as follows, to wit:

"And now, this 26th day of December, A. D. 1833, this cause coming on to be heard on the bill, answer, petitions, exhibits, proofs, and master's reports, and the several parties having been fully heard by their counsel, and the court having taken time to consider of the same until this day, do order, adjudge, and decree, that the defendant,

Henry Nixon, surviving executor of Matthias Aspden, deceased, do account for, pay over, transfer, and deliver, to John Aspden, of Lancashire, in England, one of the said parties, the heir-at-law of the said Matthias Aspden, the entire balance of the personal estate of the said Matthias Aspden, which has come to his hands to be administered, after paying the debts and legacies of the said Matthias Aspden, and the costs of this suit, (which are hereby ordered to be paid out of the said fund.) And the court do further order, adjudge, and decree, that the bill and petitions, so far as they relate to the other complainants and petitioners who are claimants before the court, and all other claimants before the court, however appearing, be dismissed without costs.

As to all parties who are claimants before the court by bill, petition, or otherwise, their complaint, petition, and proceedings are dismissed without costs."

December 31, 1833. The following respondents pray leave to appeal from the decree pronounced in this case, and the same is allowed, on security being given in five hundred dollars, to be approved by one of the judges of this court:

George Harrison, Thomas H. White, and Ann Emily Bronson, Elizabeth White Bronson, Hetta Atwater Bronson, and William White Bronson, minors, by their guardian, the said Thomas H. White; Mary Harrison, a minor, by her guardian Elizabeth Harrison; Esther McPherson and Elizabeth McPherson, children of Elizabeth McPherson, deceased.

Petition of Jennet Jones and others.

Afterwards, to wit, on the seventeenth day of June, A. D. 1834, the petition of Jennet Jones, and Thomas Poole and Mary, his wife, is presented by their solicitors, James S. Smith and Henry J. Williams, esquires, which petition is filed, and is in the words following, to wit:

To the honorable the justices of the circuit court of the United States, in and for the eastern district of Pennsylvania.

The petition of Jennet Jones, and Thomas Poole and Mary, his wife, in right of the said Mary, subjects of the King of Great Britain and Ireland, respectfully showeth: That your petitioners are the lineal descendants and heirs-at-law of John Aspden, the eldest son of Thomas Aspden and Elizabeth Scroop, formerly of Simondstone, in the county of Lancaster, in England, and, as such, are also the heirs-at-law of Matthias Aspden, late of the city of Philadelphia, deceased.

That this honorable court have, in the case of Packer vs. Nixon, executor of the said M. Aspden, deceased, April sess., 1828, No. 1, in equity, pronounced a decree, which your petitioners conceive to be erroneous and imperfect; and they, therefore, pray the leave of this court to file their supplemental bill and bill of review, to enable them to become parties to the said suit, and to correct, amend, and reverse the said decree, so far as it declares John Aspden, of Lancashire, England, to be the heir-at-law of the said Matthias Aspden, the testator

above named, and directs the said Henry Nixon, his executor, to pay over unto the said John Aspden, of Lancashire, the whole balance of the personal estate of the said testator in the hands of the executor; by which decree your petitioners are materially affected and aggrieved:

1. Because the petitioners have not been made parties to the above cause, although the decree was made in a matter in which they were interested.

2. Because the petitioners were prevented, by the accidental detention of the vessel by which their instructions were transmitted to their agent in this country, from applying to this court to be heard before the decree was pronounced and enrolled.

3. Because the said decree was erroneous in declaring John Aspden, of Lancashire, to be the heir-at-law of the testator, Matthias Aspden.

4. Because the solicitors of your respondents have discovered within two weeks, and since the date of said decree, two papers in the handwriting of the said testator, showing the pedigree of a part of his family, whereby it appears that the said John Aspden, under whom the petitioners claim, was the elder brother of William Aspden, under whom the said John Aspden, of Lancashire, claims, and that thus they are the heirs-at-law of the said testator.

5. Because the solicitors of your petitioners have, since the date of the said decree, (viz., on the 13th instant,) discovered the family bible of the testator, Matthias Aspden, in which he had written the dates of the baptisms and marriages, and the places of residences and burials of different members of his family; from which it appears that your petitioners, and not John Aspden, of Lancashire, are the heirs-at-law of the testator, and entitled to his whole personal estate under the provisions of his last will and testament.

6. Because the solicitors of the petitioners have, since the date of said decree, (to wit, on the 13th instant,) discovered a trunk partly filled with the papers of the testator, from which it appears that the great grandfather of your petitioners was the eldest son of Thomas Aspden, the common ancestor of the testator and your petitioners, and that they are thus the heirs-at-law of the said testator.

7. Because the said papers and family bible were not known to your petitioners, or to their agent, or to either of them, at the date of said decree, and could not have been made use of by them in any way at the said hearing, or before said decree.

Motion for leave to file supplemental bill.

Afterwards, to wit, on the same day, Messrs. Williams and Smith, the said solicitors for the said Jennet Jones and Thomas Poole and Mary, his wife, move the court here for leave to file a supplemental bill and bill of review, to review and reverse so much of the decree pronounced in the above case as declares John Aspden, of Lancashire, to be the heir-at-law of the testator, M. Aspden, and directs the said executor to pay over to him the whole balance of the personal estate of said testator in his hands:

1. Because the said Jennet and Mary are the great grandchildren of John Aspden, the eldest son of Thomas Aspden, of Simondstone, Lancashire, England, and as such the heirs-at-law of the testator.

2. Because the said Jennet, Thomas, and Mary have not been made parties to the said cause, although the decree was made in a matter in which they are interested.

3. Because the said Jennet, Thomas, and Mary were prevented, by the accidental detention of a vessel, by which their instructions were transmitted to their agent in this country, from applying to this court to be heard before the decree was pronounced and enrolled.

4. Because the said decree was erroneous in declaring John Aspden, of Lancashire, England, to be the heir-at-law of the testator, Matthias Aspden.

5. Because the solicitors of the said Jennet, Thomas, and Mary, have discovered, since the enrolment of said decree, and within two weeks, two papers in the handwriting of the testator, showing the pedigree of his family, or a part thereof; whereby it appears that the said John Aspden, under whom the said Jennet and Mary claim, (as his grandchildren,) was the elder brother of William Aspden, under whom the said John Aspden, of Lancashire, England, claims, and that they are thus the heirs-at-law of the testator.

6. Because the solicitors of the said Jennet, Thomas, and Mary, have discovered, since the enrolment of the said decree, (viz., on the 13th instant,) the family bible of the testator, Matthias Aspden, in which he had written the dates of the baptisms and marriages, and the places of residence and burial, of different members of his family; from which it appears that the said Jennet and Mary, and not John Aspden, of Lancashire, are the heirs-at-law of the testator, and, under the provisions of his last will and testament, entitled to his whole personal estate.

7. Because the solicitors of the said Jennet and Mary have, since the enrolment of the said decree, (viz., on the 13th instant,) discovered a trunk, in part filled with the papers of the testator; from which it appears that John Aspden, the great grandfather of the said Jennet and Mary, was the eldest son of Thomas Aspden, the common ancestor of the testator and the said Jennet and Mary, and that thus they are his heirs-at-law.

8. Because the papers before referred to, and the said family bible, were not known to the said Jennet, Thomas, and Mary, or either of them, or to their agent, until since the date of said decree, and could not have been had or used by the said Jennet, Thomas, or Mary, or their agents, at the said hearing, or before the said decree.

Affidavit of James Neville.

Afterwards, to wit, on the second day of December, in the year aforesaid, the affidavit of James Neville is presented and filed, which affidavit is in the words and of the tenor following, to wit:

James Neville, of Blackburn, in the county of Lancaster, in that part of the united kingdom called England, gentleman, maketh oath and saith, that on the twenty-fourth day of July, one thousand eight hundred and thirty-four, this deponent went to Padiham and Whalley, in the said county, for the purpose of examining the registers of baptisms, marriages, and burials kept there. That this deponent carefully examined such registers, and found that John Aspden, the son of Thomas Aspden, the common ancestor named in the pleadings in the said suit, was baptized at Padiham on the fourth day of August, one thousand six hundred and eighty-nine, and was married at Whalley aforesaid to Sarah Butterworth, on the tenth day of April, one thousand seven hundred and ten, old style; and that their son Andrew was baptized at Padiham aforesaid on the fourteenth day of January, one thousand seven hundred and *ten* eleven, old style, and as the year, according to the ancient mode of computation used in England called old style commenced in the month of March, the month of January was the tenth month of the year one thousand seven hundred and ten, and therefore the said Thomas Aspden was born about nine months subsequently to the marriage of his said parents. And this deponent further saith, that, on making the aforesaid search and examination, he found that William Aspden, another son of the said Thomas Aspden, the common ancestor aforesaid, was baptized at Padiham aforesaid on the twenty-sixth day of July, one thousand six hundred and ninety-one, being nearly two years subsequent to the baptism of his brother, the said John Aspden. And this deponent further maketh oath and saith, that on the fifth, and also on the eighth days of this present month of August, this deponent examined the register of baptisms, marriages, and deaths, kept at the parish church of Saint Luke, in the county of Middlesex, and found that the said Andrew Aspden was married on the fifth day of November, one thousand seven hundred and thirty-five, to Jenet Hindle; and that John Aspden, late of Old street, in the city of London aforesaid, the son of the said Andrew Aspden and Jane Aspden, was baptized on the twenty-second day of March, one thousand seven hundred and thirty-nine. And this deponent further maketh oath and saith, that on the said sixth day of August instant, this deponent examined the register of baptisms, marriages, and deaths, kept at the parish church of Saint Botolph, in the county of Middlesex, and found that the said John Aspden was married on the twenty-ninth day of November, one thousand seven hundred and sixty-seven, to Mary Sanderson, and had issue by her Jennet, otherwise Jenet, who was born on the fifteenth day of September, one thousand seven hundred and sixty-eight, and was baptized on the ninth day of October following; and Mary, who was born on the twenty-eighth day of November, one thousand seven hundred and sixty-nine, and baptized on the seventeenth day of December following, both of whom are now living; the said Jennet, otherwise Jenet, being the widow of David Jones, deceased, and the said Mary being the wife of Thomas Poole. And this deponent saith, that it appears from entries in the bible of the said John

Aspden, and otherwise, that the said John Aspden had issue four other daughters, all of whom died in early infancy; but it does not appear that he had any other issue. And this deponent further maketh oath and saith, that it appears from the register of burials at Saint Paul's, at Deptford, in the county of Kent, that the said John Aspden, the father of the said Jennet, otherwise Jenet Jones, and Mary Poole, departed this life on the twenty-second day of February, one thousand eight hundred and twenty-eight, and was buried on the first day of March following, at Deptford aforesaid. And this deponent further maketh oath and saith, that after diligent search and inquiry, he cannot find that the said John Aspden left any issue except his said two daughters, Jannet, otherwise Jenet, Jones and Mary Poole. And this deponent believes that they, the said Jennet, otherwise Jenet, Jones and Mary Poole, are the sole co-heiresses-at-law of their said late father, John Aspden, as well as of Matthias Aspden, the testator named in the pleadings in the said cause; and that John Aspden of Lancashire, who has represented himself to be the heir-at-law of the testator, is not his heir-at-law, inasmuch as he is descended from William Aspden, a younger son of the said Thomas Aspden, the common ancestor, as appears by the pedigree hereunto annexed. JAS. NEVILLE.

Sworn [to] by the said James Neville, at the Mansion house, in the city of London, this eleventh day of August, one thousand eight hundred and thirty-four, before me. C. FAREBROTHER,
Mayor.

The pedigree referred to in the within affidavit of James Neville.

Thomas Aspden, the common ancestor, had issue.

[1]	[2]	[3]
John, baptized at Padiham, August 4th, 1689; married at Whalley, 10th April, 1710, O. S., to Sarah Butterworth; buried at St. Paul's, Deptford, January 30, 1754; left issue	William, baptized at Padiham, July 25th, 1691; had issue	Matthias, baptized at Padiham, May 14th, 1693; ob. 19th August, 1765; had issue
Andrew, baptized at Padiham, 14th January, 1710, O. S.; was married on the 5th November, 1735, to Jenet Hindle, at St. Luke's, Old street, London; he died in September, 1771, and was buried at St. Paul's, Deptford, 19th September, 1771, leaving an only son,	Thomas and several other children; Thomas had issue	Matthias, the testator.
John, born 9th March, 1739; baptized at St. Luke's, Old street, London, on the 22d of that month; married 29th November, 1767, at St. Botolph, Aldersgate, London, to Mary Sanderson; died February, 1828; buried at St. Paul's, Deptford, Mar. 1, 1828, leaving two daughters, his only issue, surviving him, viz:	John, of Lancashire, the pretended heir-at-law, and several other children.	
Jennet, alias Jenet, the widow of David Jones, born 11th or 15th Sept'r, 1768; baptized at St. Botolph's, 9th October, same year.	Mary, wife of Thos. Poole, born 28th November, 1769; baptized at St. Botolph's, 17 December, in that year.	

The co-heiresses-at-law.

This is the pedigree referred to in the affidavit of James Neville, sworn this eleventh day of August, one thousand eight hundred and thirty-four, before me.

C. FAREBROTHER,
Mayor.

Copies of certificates of baptism, marriages, and burials.

Padiham, in the county of Lancaster, and diocese of Chester.

1689.

John, the son of Thomas Aspden, bapt. ye 4th of August.

1691.

William, son of Tho. Aspden, of Symondstone, bapt. July 26.

May, 1693.

Matthias, ye son of Thos. Aspden, of Simonstone, baptized ye 14th.

January 1710.

Andrew, son of Jon. Aspden, of Read, bapt. ye 14th.

The above are correct copies of the baptismal register in the church of Padiham, as witness my hand this 24th July, 1834.

S. I. C. ADAMSON,
Incumbent.

Compared and found correct same day.

JAS. NEVILLE.

De Nuptiis, anno domini 1710.

Johannes Aspden de Worston et Sarah Butterworth de Read, nuptii celebrat fuerint decimo Aprile.

WHALLEY, *July* 24, 1834.

The above is a true extract from the baptismal register in the church of Whalley, as witness my hand.

JAMES NEVILLE.

Marriages in the parish of Saint Luke, in the county of Middlesex, in the year 1735.

Andrew Offiden and Janat Hindle, banns, November 5th.

Extracted this 8th day of August, 1834, by me,

EDWARD C. FACEY,
Parish clerk and register keeper.

Compared same day and found correct.

Page —.

Baptisms solemnized in the parish of Saint Luke, in the county of Middlesex, in the year 1739.

When baptized.	Child's christian name.	Parent's name.		Abode.	Quality, trade, or profession.	By whom the ceremony was performed.
		Christian.	Surname.			
1739, March 22d; born March 9th	John S of	Andrew & Jane.	Asbin.	–	Cheesemonger.	

Extracted from the register-book of the above parish, the 5th day of August, 1834, by me.

EDWARD C. FACEY,
Parish clerk and register keeper.

Compared with the original entry, August 5th, 1834, and found correct.
J. N.

Volume 1, page 124. Buried, 1754, January 30, John Aspin, laborer from ye workhouse.

A true copy from the register of burials of the parish of St. Paul, Deptford, Kent.

B. S. FFINCH, *Rector*.

Compared with the original entry, August 4th, 1834, and found correct.
J. N.

Page 51.

Marriages solemnized in the parish of St. Botolph, Aldersgate, in the year one thousand seven hundred and sixty-seven.

John Aspden, of the parish of St. Luke, in the county of Middlesex, batchelor, and Mary Sanderson, of this parish, spinster, were married in this church, by license, with consent of ———— this twenty-ninth day of November, in the year one thousand seven hundred and sixty-seven, by me.

J. MORE, *Curate*.

This marriage was solemnized between us.

JOHN ASPDEN,
MARY SANDERSON.

In the presence of—
WILLIAM SANDERSON,
THOMAS SANDERSON.

No. 206.

I certify the above to be a true copy, extracted this 5th day of August, 1834.

E. H. PENNY,
Officiating Minister.

6th August, 1834, compared and found correct.

J. N.

St. Botolph, Aldersgate.

These are to certify that Jennet D., of John and Mary Aspden, was born the 11th day of September, one thousand seven hundred and sixty-eight, and baptized the 9th day of October, as appears by the register book of christenings belonging to this parish, and extracted from the said register book this 6th day of August, 1834.

E. H. PENNY,
Officiating Minister.

Same day compared and found correct.

J. N.

St. Botolph, Aldersgate.

These are to certify that Mary D., of John and Mary Aspden, was born the 28th day of November, one thousand seven hundred and sixty-nine, and baptized the seventeenth day of December, as appears by the register book of christenings belonging to this parish, and extracted from the said register book this 6th day of August, 1834.

E. H. PENNY,
Officiating Minister.

Same day compared and found correct.

J. N.

Volume 1. *Buried, September*, 1771. Page 227.

19. Andrew Aspden, from London.

A true copy from the register of burials of the parish of St. Paul, Deptford, Kent.

B. S. FFINCH, *Rector.*

Compared with the original entry, August 4th, 1834, and found correct.

J. N.

Volume 5. Page 96. Year 1828.

Name.	Place of abode.	When buried.	Aged.	By whom the ceremony was performed.
Aspden, John No. 762.	St. Luke, Middlesex.	March 1.	88	B. S. Ffinch, Curate.

The above is a true copy from the register of burials of the parish of St. Paul, Deptford, Kent.

B. S. FFINCH, *Rector*.

Compared with the original entry, August 5, 1834, and found correct.

J. N.

Affidavit of H. J. Williams and J. S. Smith, esq'rs.

Afterwards, to wit, on the third day of December, in the year last aforesaid, the joint affidavit of Henry J. Williams and James S. Smith, esquires, is presented and filed; which affidavit is in the words and of the tenor following, to wit:

Henry J. Williams, of the city of Philadelphia, attorney at law, and James S. Smith, also of said city, attorney at law, being severally duly sworn, do depose and say as follows, to wit:

The said Henry doth say, that on the third of June, A. D. 1834, he was retained by John A. Brown, of the said city, as the counsel for the heirs of John Aspden, deceased, late of the city of London, who claimed to be entitled to the estate of Matthias Aspden, deceased, as his heir-at-law. In order to obtain information in relation to the matters committed to his charge, the said Henry applied to the said James S. Smith, esq., who, he understood, was one of the counsel of Mr. Nixon, the executor of the said Matthias Aspden, and requested to be allowed to examine any papers in his possession relating to that estate. Some papers were accordingly sent to the said Henry by Mr. Smith, who informed him that they had before been communicated to some of the counsel concerned in the cause upon a similar request from them. Among these papers was the larger memorandum referred to in the motion for the bill of review, which was not then known to be in the handwriting of the said Matthias Aspden. Mr. Smith also informed the said Henry that some other papers had been returned to Mr. Nixon, the executor, and on the 6th of June the said Henry addressed a note to Mr. Nixon, requesting to be allowed to examine such papers as were in his possession, relating to the succession of the said Matthias Aspden. His request was granted, and a number of papers were furnished, none of which, however, appeared to be at all material. About this time the said James S. Smith, esq., was also retained by John A. Brown as counsel to act with the said Henry.

And the said Henry and James do declare, further, that they jointly applied to Mr. Nixon, to know if there were no other papers in his possession which might be of service to their clients. His answer was that he had nothing but what they had seen, except an old trunk of clothes which had been lying for a long time in the old Bank of the United States, and had about a year before been removed at the request of the trustees or cashier of that bank to the Bank of North America. This trunk these deponents determined to examine, and on the 13th June went, by appointment, to the Bank of North America, where, in

an upper room, they found a large leathern trunk, of unusual size, which was opened by Mr. Nixon. The whole appeared to be filled with clothes partly decayed and worn out; among the clothes were several bundles of old papers; and upon examining the trunk more closely and removing the clothes, it was discovered that the bottom was double, and that under a cover extending over the whole trunk were a number of books, papers, accounts, and documents, and among them the family bible and several cancelled wills of the testator. By a comparison with the bible and other papers found in the trunk, the said Henry and James became satisfied that the memorandum above mentioned was in the handwriting of the testator, and an affidavit of that fact was subsequently procured by them from Mr. J. Roberts, on the 14th of June, 1834.

The discovery of these papers appeared to excite great surprise in the executor, Mr. Nixon, who repeatedly declared that he had always supposed that the trunk contained nothing of any value, and that he had no knowledge whatever of any of the papers and documents found under the false bottom.

HENRY J. WILLIAMS,
JAMES S. SMITH.

Sworn in open circuit court, this 3d December, 1834.
FRA. HOPKINSON, *Clk. cir. court.*

Motion to file supplemental bill overruled.

Afterwards, to wit, on the thirteenth day of December, in the year last aforesaid, the motion of the seventeenth of June last, to file supplemental bill is overruled and petition dismissed.

Mandate of the Supreme Court, United States.

Afterwards, to wit, on the eighth day of June, A. D. 1835, the mandate of the Supreme Court of the United States is presented, read, and filed; which mandate is in the words and of the tenor following, to wit:

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania, greeting:

[Seal of the Supreme Court of the U. S.]

Whereas lately, in the circuit court of the United States, for the eastern district of Pennsylvania, before you, or some of you, in a cause between John Zane and Isaac Zane and others, complainants and petitioners, and Henry Nixon, surviving executor of Matthias Aspden, deceased, defendant in chancery, the decree of the said circuit court was in the following words, viz: "The court do order, adjudge, and decree, that the defendant, Henry Nixon, surviving executor of Matthias Aspden, deceased, do account for, pay over, transfer, and deliver to John Aspden, of Lancashire, in England, one of the said parties, the

heir-at-law of the said Matthias Aspden, the entire balance of the personal estate of the said Matthias Aspden, which has come to his hands to be administered, after paying the debts and legacies of the said Matthias Aspden and the costs of this suit; which are hereby ordered to be paid out of the said fund. And the court do further order, adjudge, and decree, that the bill and petitions, so far as they relate to the other complainants and petitioners, who are claimants before the court, and all other claimants before the court, however appearing, be dismissed without costs; as to all parties who are claimants before the court by bill, petition, or otherwise, their complaints, petition, and proceedings are dismissed without costs;" as by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States by virtue of an appeal, agreeably to the act of Congress in such case made and provided, fully and at large appears.

And whereas, in the present term of January, in the year of our Lord one thousand eight hundred and thirty-five, the said cause came on to be heard before the said Supreme Court on the said transcript of the record, and was argued by counsel; on consideration whereof, it is ordered, adjudged, and decreed, that the decree of the said circuit court in the premises be and hereby is reversed and annulled; and that the cause be remanded to the said circuit court for further proceedings, with directions to the said court to allow the bill and the petitions of the claimants to be amended, and the answers and pleadings also to be amended to conform thereto, and proofs to the new matter also to be taken; and with further directions to allow any other person or persons, not now parties to the proceedings, who shall claim title to the funds in controversy, as heir or heirs-at-law, or representatives of the testator, to present their claims respectively before the said court, and to make due proofs thereof, and to become parties to the proceedings for the due establishment and adjudication thereof. But the proofs already taken in the cause are to be deemed admissible evidence in regard to all such persons, not now parties, who shall claim title as aforesaid, and become parties in the cause under this order; and such other proceedings are to be had in the said cause by the said court, as to law, equity, and justice shall appertain.

January 29.

You, therefore, are hereby commanded, that such further proceedings be had in said cause, in conformity with the opinion and decree of said Supreme Court, as according to right and justice and the laws of the United States ought to be had, the said appeal notwithstanding. Witness the honorable John Marshall, chief justice of said Supreme Court, the second Monday of January, in the year of our Lord one thousand eight hundred and thirty-five.

WM. THOMAS CARROLL,
Clerk of the Supreme Court of the United States.

Leave granted to amend bill.

Afterwards, to wit, on the fifteenth day of June, in the year last aforesaid, it is ordered, that the complainant have leave to amend his bill in conformity to the directions of the Supreme Court. And that all parties to petitions heretofore filed in this cause have leave to amend the same, and to file amended petitions. And it is further ordered, that the petitions presented by parties who have not heretofore applied to become parties, be filed and acted upon pursuant to the mandate of the Supreme Court. And that the petitioners named in the several petitions be allowed to present their claims and make due proof thereof, and to become parties to the proceedings in this cause for the due establishment and adjudication thereof.

Amended bill.

Afterwards, to wit, on the same day, the complainant aforesaid, by his said solicitor, William Rawle, jr., esquire, presents and files his amended bill, which is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, of third circuit, in and for the eastern district of Pennsylvania, on the equity side of the said court:

Humbly complaining, showeth unto your honors, your orator, Samuel Packer, a citizen of the State of New Jersey, the heir-at-law of Matthias Aspden, the testator hereafter named. That the said Matthias Aspden, of King street, Holborn, London, in that part of the united kingdom of Great Britain and Ireland called England, was formerly a merchant in the city of Philadelphia, but quitted that place when the war broke out between the United States and Great Britain, in the year of our Lord one thousand seven hundred and seventy-six, and went to and resided in England, until the time of his death hereafter mentioned, except that he came to the United States after the conclusion of the said war for the purpose of settling his affairs and transacting his business, and always returned to England as his home after his affairs were settled. And the said Matthias Aspden, during his residence in England as the place of his domicil, invested large sums of money in the purchase of stocks and bank annuities in the English funds, and also in the funds of the East India and South Sea companies. And the said Matthias Aspden departed this life on the ninth day of August, A. D. one thousand eight hundred and twenty-four, being then resident in King street, Holborn, aforesaid, and domiciled in England. And your orator further showeth unto your honors, that the said Matthias Aspden, in his lifetime, and at the time of making his will hereafter mentioned, was possessed of very considerable property, and particularly of very considerable property in the English and American funds, and of various other kinds of personal estate and effects, to a very considerable amount in the whole. And the said Matthias Aspden (being then resident and domiciled in England) made and exe-

cuted his last will and testament, in writing, with three codicils thereto, bearing date the sixth day of December, A. D. one thousand seven hundred and ninety-one, in the words and figures following, to wit: "These are to certify that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and personal, to my heir-at-law, first paying all my just debts and funeral expenses; and the following legacies, first, to each of the children of my half-brother, Benjamin Hartley, deceased, that may be alive at my death, the sum of one hundred pounds to each, Pennsylvania currency; and to my half-sister, Bersheba Zane, wife of Elnathan Zane, the sum of four hundred pounds, Pennsylvania currency; both the above living, or did live, at or near Haddonfield; and to my half-brother, Roger Hartley, living at present in Lancaster county, the sum of three hundred pounds of the like currency.

Witness my hand this 6th day of December, 1791, Philadelphia.

MATTHIAS ASPDEN.

Least any question should arise about the legitimacy of *of* my birth, it is my will that my estate, real and personal, should go to the party who would be my lawful heir in case there might arise no doubt on that head. It is firmly believed, from the best information, that my birth was after marriage. Philadelphia, December 6th, 1791. I do further give one hundred pounds currency to each of the children of my deceased half-sister, Ann Hinchman, that may be living at my death. December 6th, 1791. "The last will of Matthias Aspden. I do hereby appoint my friends, Mr. George Roberts and Mr. Abraham Liddon, with the president of the old bank at the time being, to be my executors to this my last will. MATTHIAS ASPDEN.

"Note. My property in England is as follows: £12,500 in the four per cent. stocks, £3,000 in the five per cent. stocks, £1,800 in the three per cent. stocks," as in and by the probate of the said will, when the same shall be produced to this honorable court, (reference being thereunto had,) will appear. And your orator further showeth unto your honors that the said Matthias Aspden afterwards departed this life on the ninth day of August, A. D. one thousand eight hundred and twenty-four, without having revoked or altered his said will, and without issue, he never having been married. And your orator further showeth that the said George Roberts and Abraham Liddon both died in the lifetime of the said testator; and Henry Nixon, a citizen of the State of Pennsylvania, was, at the time of the death of the said testator, the president of the Bank of North America, which bank the testator meant and intended by the description of the old bank. And the said Henry Nixon caused the said will to be duly proved according to the laws of Pennsylvania, and having received letters testamentary thereon, took on himself the burthen of *of* the execution thereof, and hath possessed himself of all the goods and chattels, and other personal estate of the said testator, to a very large amount, more than sufficient

to pay the funeral expenses, debts, and legacies of the said testator. And your orator expressly avers that the said Matthias Aspden, at the time of the making and execution of the said will and testament, and from that time until the time of his death, and also at the time of his death, was resident and domiciled in England. And your orator further showeth unto your honors that the said testator left your orator his heir-at-law; and as evidence thereof, your orator showeth that Philip Packer was the common ancestor both of the said testator and of your orator, and died many years ago, having had issue six children, of whom Samuel Packer was his oldest son, who died many years ago, having had issue ten children, of whom Samuel Packer was his eldest, and Daniel Packer his second son; and the said Samuel Packer, last named, having died without issue many years ago before the death of the testator, the said Matthias Aspden, the said Daniel Packer became the heir-at-law of his father, the said Samuel Packer first named. And the said Daniel Packer, the son and heir-at-law of the first named Samuel Packer, also died many years ago, before the death of the testator, the said Matthias Aspden, having had five children, of whom your orator is his eldest son, and heir-at-law. And your orator further showeth unto your honors, that the name of the mother of the said testator, Matthias Aspden, was Rebecca, a daughter of the said Philip Packer, the common ancestor, and sister of the first named Samuel Packer, the grandfather of your orator; and the said Rebecca married, as her second husband, Matthias Aspden, by whom she had issue an only child, viz., the said testator, Matthias Aspden; and the said Matthias Aspden, the father, died in Philadelphia, in or about the year one thousand seven hundred and sixty-five, leaving the said testator his only lawful issue him surviving, so that your orator became, at the death of the said testator, his heir-at-law. And your orator further showeth unto your honors, that he is advised and submits that as such heir-at-law of the said testator he is entitled, under the said will, to the residue of the personal estate and effects of the said testator, after payment of his funeral expenses, debts, and legacies, which residue amounts to a very large sum. And your orator further showeth unto your honors that he hath repeatedly applied to the said Henry Nixon to have an account of all and singular the personal estate of the said Matthias Aspden, and where and how the same is situated, and what is the true and exact amount thereof, and to have the amount thereof paid to him, deducting therefrom the just and reasonable charges of the said executor. But now, so it is, may it please your honors, that the said Henry Nixon, combining and confederating with others, to your orator unknown, whose names, when discovered, he prays leave to insert, with apt words to charge them as parties, denies that your orator is the heir-at-law of the said Matthias Aspden, or that he is in any way entitled to the benefit of any of the testamentary dispositions of the said Matthias Aspden, and refuses to render to him any account of the assets, and to pay him any part thereof; all which actings and doings of the said Henry Nixon are con-

trary to equity and good conscience, and greatly to your orator's prejudice.

In tender consideration whereof, and forasmuch as your orator cannot have plain, adequate, and complete remedy at law; to the end, therefore, that the said Henry Nixon and his confederates when discovered, on their oaths and affirmations, full, direct, and true answers, may make to all and singular the matters and things hereinbefore set forth, as if they had been particularly interrogated thereon; and that the said Henry Nixon may render and set forth a just and true account of all and singular the personal estate of the said Matthias Aspden, and where and how the same is situate; and whether there are any and what debts due or claimed to be due therefrom; and may be decreed to pay to your orator the balance of the moneys, effects, and personal property in his hands belonging to the said estate, to which your orator is justly entitled; and that your orator may have such further relief in the premises as is consistent with equity and good conscience, and to this honorable court shall seem meet: May it please your honors to grant a writ of subpœna, to be directed to the said Henry Nixon, commanding him to be and appear on the first day of the next session of this honorable court, then and there to answer all and singular the premises, and to stand to and abide such order and decree in relation to the premises as to the court shall seem meet.

Petition of Samuel Champion and wife.

Afterwards, to wit, on the same day the petition of Samuel Champion and Sarah, his wife, is presented by their solicitor, Samuel Davis, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Samuel Champion and Sarah, his wife, late Sarah Zane, in right of said Sarah, citizens of the State of New Jersey, respectfully showeth: That your petitioners, as they firmly believe, are entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioner, Samuel Champion, is the husband of the said Sarah Champion; and your petitioner, Sarah Champion, is, and was at the time of the death of the testator, one of the lawful issue of Bersheba (or Bathsheba) Zane, who was one of the lawful issue of Rebecca Aspden, the mother of the testator by her former marriage with Roger Hartley.

Your petitioners aver that the said Matthias Aspden, the testator,

was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to them, the said petitioners, as it may in justice and equity appertain.

Petition of Mahlon Doan and wife, and Ann Ellis.

Afterwards, to wit, on the same day the petition of Mahlon Doan and Rebecca, his wife, is presented by their solicitor, John L. Newbold, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Mahlon Doan and Rebecca, his wife, late Rebecca Hartley, in right of said Rebecca, aliens, and subjects of the *the* King of Great Britain, and of Ann Ellis, a citizen of the State of New Jersey, respectfully showeth, that your petitioners are, as they firmly believe, entitled to have distribution made to them, as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1 to April sessions, 1828.

Your petitioner, Rebecca Doan, is, and was at the time of the testator's death, one of the children of Roger Hartley, who was one of the sons of Rebecca Hartley, the mother of the testator, by her first marriage with Roger Hartley, (the elder,) and the testator's brother of the half blood.

Your petitioner, Ann Ellis, is, and was at the time of the testator's death, one of the children of Bathsheba Zane, formerly Bathsheba Hartley, who was one of the daughters of Rebecca Hartley, the mother of the testator, by her first marriage, and the testator's sister of the half-blood.

Your petitioners aver, that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making the said will, and also the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray, that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries

to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to them, the said petitioners, as may in justice and equity appertain.

Petition of John Aspden, of Lancashire, England.

And afterwards, to wit, on the same day the petition of John Aspden, of Lancashire, England, is presented by his solicitors, John Sergeant and James M. Broom, esquires; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania, the petition of John Aspden, of Lancashire, in England, a subject of the King of the united kingdom of Great Britain and Ireland, respectfully showeth:

That he firmly believes, and avers, that he is entitled, as heir-at-law and residuary devisee of Matthias Aspden, deceased, the testator named in the bill filed in this cause, to the residue of the estate devised in and by the will of said Matthias Aspden, deceased; and to the funds in the hands of Henry Nixon, the executor named in the said bill, and the defendant in this cause. That your petitioner is, and was at the time of the death of the said testator, the heir-at-law of Thomas Aspden, who died before the death of said testator; which said Thomas was the heir-at-law of William Aspden, who died before the death of the said Thomas; which said William Aspden was the heir-at-law of Thomas Aspden, the common ancestor, deceased, and father of Matthias Aspden, deceased, the father of Matthias Aspden, the testator named in said bill; which said Matthias, the testator, died without leaving issue, and without leaving any brothers or sisters of the whole-blood.

Your petitioner avers, that the said Matthias Aspden, the testator, at the time of making the said will was domiciled in the city of London, in the united kingdom of Great Britain and Ireland, and from thenceforth continually had his domicil in the said city of London; and that the said testator, at the time of his death, had his domicil in the said city of London.

Your petitioner therefore prays that he may be admitted as party to the said suit, for the purpose of claiming the fund in the hands of the said executor, and to have decreed to him the said fund; and to have all other matters done and decreed which in justice and equity he may be entitled to; and all other and further relief as to your honors may seem meet.

Petition of Mary Ann Church.

Afterwards, to wit, on the same day the petition of Mary Ann Church is presented by her solicitor, Benjamin Tilghman, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania, the petition of Mary Ann Church, widow, a citizen of the Commonwealth of Pennsylvania, respectfully showeth:

That your petitioner is, as she firmly believes, entitled to have distribution made to her as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petititioner is one of the children of Rebecca Kay; the said Rebecca Kay, whose maiden name was Hartley, having been the sister of the half-blood of Matthias Aspden, the testator.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioner prays that she may be admitted as party to the said suit, for the purpose of claiming the funds in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to her claim, as justice may require; and, finally, that the said fund may be decreed to her, the said petitioner, as may in justice and equity appertain.

Petition of James McMurtrie and wife.

Afterwards, to wit, on the same day the petition of James McMurtrie and Rebecca, his wife, is presented by their solicitor, Benjamin Tilghman, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of James McMurtrie and Rebecca McMurtrie, his wife, in right of his said wife, citizens of the State of Pennsylvania, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioner, Rebecca McMurtrie, was one of the two children of Matthias Harrison, who was one of the sons of Mary Harrison, formerly Mary Aspden, the only child of Matthias Aspden, the father of the

testator, by a former marriage, and consequently the testator's sister of the half-blood.

Your petitioners aver, that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to your petitioners as may in justice and equity appertain.

Petition of Joseph Worrell and wife.

Afterwards, to wit, on the same day the petition of Joseph Worrell and Anne, his wife, is presented by their solicitor, the said Benjamin Tilghman, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Joseph Worrell, a citizen of the State of Pennsylvania, and Anne, his wife, in right of the said Anne, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioner, Anne Worrell, is one of the children of Rebecca Kay, the said Rebecca Kay, whose maiden name was Hartley, having been the sister of the half-blood of Matthias Aspden, the testator.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to your said petitioners as may in justice and equity appertain.

Petition of John A. Brown, adm'r of John Aspden, of London.

Afterwards, to wit, on the same day the petition of John A. Brown, administrator of John Aspden, of London, is presented by his solicitors, H. J. Williams and James S. Smith, esquires; which petition, being read and filed, is in the words and of the tenor following, to wit:

In the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit.

The petition of John A. Brown, a citizen of the State of Pennsylvania, administrator of the goods and chattels, rights and credits, which were of John Aspden, late of Old street, London, respectfully showeth: That your petitioner is, as he firmly believes and avers, entitled to have decreed to him, as administrator of the said John Aspden, the heir-at-law of Matthias Aspden, at the time of the death of the said Matthias, and as such the general devisee in his said last will intended and described, *to* the whole of the personal estate of the said Matthias; which said will is set forth in the proceedings in this cause.

And your petitioner further saith, that the said John Aspden was the eldest son of Andrew Aspden, who was the eldest son of John Aspden, who was the eldest paternal uncle of the said testator, and as such, the said Matthias the testator, and Matthias Aspden the father of the said testator, having both died without leaving issue, upon the failure of the issue of Matthias the testator, and Matthias the father of the testator, was the heir-at-law of the said testator.

And your petitioner avers, that the said Matthias the testator was, at the date of his said will, and at the time of his death, and during the whole intermediate [time] between the date of his will and his death, domiciled in London, or elsewhere in England.

Your petitioner therefore prays, that in accordance with the decree of the Supreme Court of the United States in the premises, your honor will permit your petitioner to become party as administrator aforesaid to the said suit, and that the fund in the hands of the executor aforesaid may be decreed to him, as in law, justice, and equity it ought to be.

Petition of Jennet Jones and Mary Poole.

Afterwards, to wit, on the same day the petition of Jennet Jones and Mary Poole is presented by their solicitors, H. J. Williams and James S. Smith, esquires; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the justices of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

The petition of Jennet, otherwise Janet Jones, widow of David Jones, deceased, and Mary Pool, widow of Thomas Poole, deceased, both of the city of London, and subjects of the King of the united kingdom of Great Britain and Ireland, respectfully showeth: That

your petitioners are the daughters and only children of John Aspden, late of Old street, in the said city of London, who died in the said city in the year of our Lord 1828, intestate, leaving your petitioners his heirs-at-law.

And your petitioners further show unto your honors, that at the April sessions of this court, in the year 1828, Samuel Packer, a citizen of the State of New Jersey, by his solicitor, William Rawle, jr., esquire, filed his bill on the equity side of this court, setting forth, that a certain Matthias Aspden, a citizen of Pennsylvania, made his will and testament, bearing date the sixth day of December, in the year 1791, whereby he gave his whole estate, real and personal, to his heir-at-law; that the said testator died in August, 1824, without having revoked his said will; that Henry Nixon, a citizen of the State of Pennsylvania, and then president of the Bank of North America, caused the said will to be duly proved in England and in the said State of Pennsylvania, procured letters testamentary thereon, and possessed himself of the estate of the testator to a large amount; and the said Samuel Packer expressly charged that he was the heir-at-law of the said Matthias Aspden; that he had applied to the said Henry Nixon for an account of the personal estate of the said testator, and to have the same, after deducting charges and expenses, paid out to him; but that the said executor had denied that he, the said Samuel Packer, was such heir-at-law, and refused to pay him the said balance of the said personal estate; and he, the said Samuel, thereupon prayed such relief in the premises as was consistent with equity, good conscience, and the course of the court, as by the said bill of the said Samuel, upon the files of this court, reference being thereunto had, will more fully appear.

And your petitioners further show unto your honors, that the said Henry Nixon appeared and answered the bill of the said Samuel Packer, and therein and thereby declared that the said Matthias Aspden had made his will, as set forth in the said bill, and died without revoking the same; that he, the said Henry Nixon, as surviving executor therein named, had proved the said will, and possessed himself of the personal estate of the testator, or some part of it; that the whole of the said estate was claimed by John Aspden, of the city of London, as heir-at-law of the testator, under the devise in his will; that the said John Aspden had filed a bill in the court of chancery in England, and had obtained an injunction, restraining him, the said Henry Nixon, from collecting the funds of the estate; that the said estate was claimed by many other persons, and that he, the said Henry, was ready to submit to, and act in accordance with, the directions of this honorable court, being indemnified and paid his reasonable costs and charges; as by the said answer, filed of record in this honorable court, will fully appear.

And your petitioners further show unto your honors, that a great number of persons filed their petitions, claiming to be entitled, under the said will of Matthias Aspden, some to the whole, and some to a distributive part of the estate of the testator in the hands of the executor,

and elsewhere, and praying to be admitted parties to the said suit, and that inquiries should be made into their respective claims; as by the said petitions, filed of record in this honorable court, will fully appear.

And your petitioners further show unto your honors, that it was afterwards ordered by your honors that it be referred to the master to examine who are the heirs and next of kin of the said Matthias Aspden, with power to examine witnesses, as the parties may desire; and also, if the heirs and next of kin were not satisfactorily discovered, to make publication. And divers other orders in the premises were subsequently made; under all which orders, certain proceedings were had before the said master, who reported the same, with sundry exhibits, depositions, and documents annexed; as by the same, filed of record in this honorable court, will appear.

And your petitioners further show unto your honors, that, after divers other orders and proceedings, on the twenty-sixth day of December, A. D. 1833, this honorable court did order, adjudge, and decree, that the defendant, the said Henry Nixon, surviving executor of the late Matthias Aspden, deceased, do account for and pay over to John Aspden, of Lancashire, England, one of the said parties, the entire balance of the personal estate of the said Matthias Aspden, after paying the debts and legacies of the said Matthias Aspden, and the costs of this suit. And the said court did further adjudge and decree, that the said bill and petitions, so far as they relate to other claimants before this court, however appearing, be dismissed without costs.

And your petitioners further show unto your honors, that, to the above decree, an appeal was entered to the Supreme Court of the United States by certain of the respondents, which appeal was allowed by your honors, and the cause was regularly carried up and prosecuted before their honors, the justices of the said Supreme Court.

And your petitioners further show unto your honors, that, after divers proceedings and arguments before the said Supreme Court, it was by the said court ordered, adjudged, and decreed, that the decree of the said circuit court in the premises be, and thereby was, reversed and annulled, and the cause remanded for further proceedings, with directions to the said court to allow the bill and petitions of the claimants to be amended, and the answers and pleadings also to be amended to conform thereto, and proofs to the new matter also to be taken; and with further directions to allow any other person or persons, not theretofore parties to the proceedings, who shall claim title to the funds in controversy, as heir, or heir-at-law, or representatives of the testator, to present their claims, respectively, before the said court, and to make due proofs thereof, and to become parties to the proceedings for the due establishment and adjudication thereof. But the proofs already taken in the cause are to be deemed admissible evidence in regard to all such persons, not now parties, who shall claim title, as aforesaid, and become parties in the cause under this order; and such other proceedings to be had in the said cause, by the said court, as to law, equity, and justice shall appertain.

And your petitioners further show unto your honors, that under and by virtue of the above recited order and decree, the said cause was remanded to this honorable court, to proceed therein as by the said Supreme Court of the United States directed, as by the mandate of said Supreme Court, filed among the records of this honorable court, will appear.

And your petitioners further show unto your honors, that they claim the whole estate of the said testator, the said Matthias Aspden, under his said will, as co-heiresses-at-law of John Aspden, late of Old street, in the city of London, deceased, who was, at the time of the death of the said Matthias Aspden, his heir-at-law, and, as such, his general devisee according to the terms of his said above mentioned last will and testament.

And your petitioners further show unto your honors, that Thomas Aspden, of Simondstone, in Lancashire, who was born, continued during his life, and died, a subject of the King of Great Britain and Ireland, domiciled in England, was the common ancestor of the testator and of the father of your petitioners, and died many years ago, having had issue twelve children, the eldest of whom was named John Aspden, who was baptized on or about the fourth of August, A. D. 1689, and was buried at Deptford, in Kent, England, in the year 1754; the said John having been born, and continued during life, and having died, a subject of the King of Great Britain and Ireland, domiciled in England.

And your petitioners further show unto your honors, that the said last mentioned John Aspden left issue one only son, Andrew Aspden, who died and was buried at Deptford aforesaid, in the year 1771, having been born, continued during life, and did, a subject of the King of Great Britain and Ireland, domiciled in England aforesaid. And the said Andrew left the said John Aspden, the father of your petitioners, his only child and heir-at-law, who was born, continued during life, and died, a subject of the said King of Great Britain and Ireland, domiciled in England aforesaid.

And your petitioners further show unto your honors, that the father of the said testator was Matthias Aspden, the third son of the common ancestor, Thomas Aspden, above named, who was born, continued during life, and died, a subject of the King of Great Britain and Ireland, domiciled in England aforesaid, but who, being resident for some time in America, married there a woman whose christian name was Rebecca, by whom he had issue one only child, the said testator, Matthias Aspden; and the said Matthias Aspden, the father of the testator, died in the year 1765, in Philadelphia, leaving the said testator his only lawful issue him surviving. And the said Matthias Aspden, the testator, also departed this life without leaving any lawful issue him surviving; and thus upon failure of issue of the said Matthias Aspden, the testator, and of the said Matthias Aspden, the father of the said testator, the said John Aspden, the father of your petitioners, as the grandson and heir-at-law of the said John Aspden, who was the eldest brother of Matthias Aspden, the father of the said testator, became, at the death

of the said testator, his heir-at-law, and as such entitled, under the will aforesaid, to the residue of his personal estate, after payment of his debts, legacies, and charges; which residue amounts to a large sum, and is in the hands of the said Henry Nixon, the executor aforesaid, and under the control and subject to the jurisdiction of this honorable court.

And your petitioners further show unto your honors, that the said testator, Matthias Aspden, was born, continued during life, and died, a subject of the King of Great Britain and Ireland; and though occasionally absent from England, in pursuit of his trade and business, was, at the time of making his said will, and at the time of his death, and during the whole intermediate period, domiciled in the city of London, or elsewhere in England, and fully intended, at the date of his said will, and ever after, that his heir-at-law, according to the common law of England, should take his whole estate, real and personal.

And your petitioners therefore pray that your honors, in accordance with the order and decree of the said Supreme Court of the United States, will allow and permit them to become parties to the said suit above mentioned; and that the fund in controversy, now in the hands of the executor aforesaid, may be decreed to them, as in law, justice, and equity it ought to be.

Amended petition of John and Isaac Zane.

Afterwards, to wit, on the same day, the amended petition of John and Isaac Zane is presented by their solicitor, John L. Newbold, esquire; which amended petition is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The amended petition of John Zane, a citizen of the State of Pennsylvania, and of Isaac Zane, a citizen of the State of New Jersey, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioners are, and were at the time of the testator's death, two of the surviving children of Bersheba, or Bathsheba, Zane, formerly Bathsheba Hartley, who was one of the daughters of Rebecca Hartley, the mother of the testator, by her first marriage with Roger Hartley, and one of the testator's sisters of the half-blood.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and

also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to them, the said petitioners, as may in justice and equity appertain.

Amended petition of Thomas H. White and others.

Afterwards, to wit, on the same day, the amended petition of Thomas H. White and others is presented by their solicitor, Charles Chauncey, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The amended petition of Thomas H. White, of the city of Philadelphia, merchant; Henry Reed and his wife, Elizabeth White Reed, formerly Elizabeth White Bronson, in right of his said wife, Ann Emily Bronson, and Hetta Atwater Bronson, and William White Bronson, minor children of Mary Bronson, deceased, by Thomas H. White, their lawful guardian, all of whom are citizens of the State of Pennsylvania; and Thomas H. White, executor of the last will and testament of Elizabeth MacPherson, deceased, a citizen of said State, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioner, Thomas H. White, is the sole surviving son of Mary White; and the said Elizabeth White Reed, wife of your petitioner, Henry Reed, and Emily Bronson, Hetta Atwater Bronson, and William White Bronson, were, with their sister Mary Bronson, since deceased, unmarried and intestate, the sole surviving children of Mary Bronson, a deceased daughter of the said Mary White; and the said Thomas H. White is the executor of the last will and testament of Elizabeth MacPherson, deceased, who was also a daughter of the said Mary White; and which three persons, Thomas H. White, Elizabeth MacPherson, and Mary Bronson, were the only children of the said Mary White; and that the said Mary White was a daughter of Mary Harrison, formerly Mary Aspden, only child of Matthias Aspden, the father of the testator, by a former marriage, and consequently the testator's sister of the half-blood.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to them, the said petitioners, as may in justice and equity appertain.

Amended petition of George Harrison.

Afterwards, to wit, on the same day the amended petition of George Harrison is presented by his solicitor, Benjamin Tilghman, esquire; which amended petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The amended petition of George Harrison, a citizen of the State of Pennsylvania, respectfully showeth: That your petitioner is, as he firmly believes, entitled to have distribution made to him as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioner is, and was at the time of the testator's death, the only surviving son of Mary Harrison, formerly Mary Aspden, only child of Matthias Aspden, the father of the testator, by a former marriage, and consequently the testator's sister of the half-blood.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioner prays that he may be admitted as party to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to his claim, as justice may require; and, finally, that the said fund may be decreed to him, the said petitioner, as may in justice and equity appertain.

Amended petition of Mary Harrison.

Afterwards, to wit, on the same day the amended petition of Mary

Harrison is presented by her solicitor, the said Benjamin Tilghman, esquire; which amended petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The amended petition of Mary Harrison, now a citizen of Rhode Island, by John Brown Francis, also a citizen of the said State of Rhode Island, in right of his wife Elizabeth, as testamentary guardian of the said Mary Harrison, respectfully showeth: That your petitioner is, as she firmly believes, entitled to have distribution made to her as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioner is, and was at the time of the testator's death, the only child of Henry Harrison, then deceased, who was one of the two children, and only son, of Matthias Harrison, then also deceased, who was one of the sons of Mary Harrison, formerly Mary Aspden, the only child of Matthias Aspden, the father of the testator, by a former marriage, and consequently the testator's sister of the half-blood.

Your petitioner avers, that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioner prays that she may be admitted as party to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to her claim, as justice may require; and, finally, that the said fund may be decreed to your petitioner, as may in justice and equity appertain.

Amended petition of Rebecca Burrough and others.

Afterwards, to wit, on the same day the amended petition of Rebecca Burrough and others is presented by their solicitor, Henry Chester, esquire; which amended petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The amended petition of Rebecca Burrough, Asher Hartley, Bathsheba Brick, Samuel Brick and Elizabeth, his wife, John Brick, Thomas Hartley, Edmund Brown, Mary Brown, Elisha Brown, Benjamin Brown, Thomas Brown, Chalkley Brown, and Israel Brown, all of whom are citizens of the State of New Jersey, respectfully showeth:

That your petitioners, as they firmly believe, are entitled to have dis-

tribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioners, Rebecca Burrough, formerly Rebecca Hartley; Asher Hartley, Bathsheba Brick, formerly Bathsheba Hartley; Elizabeth Brick, formerly Elizabeth Hartley, are, and were at the time of the testator's death, children of Benjamin Hartley, who was a son of Rebecca Aspden, the mother of the testator, by a former marriage, and consequently the testator's brother of the half-blood.

Your petitioner, John Brick, is, and was at the time of the testator's death, the sole surviving son of Mary Brick, formerly Mary Hartley, a daughter of Benjamin Hartley, who was the son of Rebecca Aspden, the mother of the testator, by a former marriage, and consequently the testator's brother of the half-blood.

Your petitioner, Thomas Hartley, is, and was at the time of the testator's death, the sole surviving son of James Hartley, who was one of the sons of Benjamin Hartley, the testator's brother of the half-blood.

And your petitioners, Edmund, Mary, Elisha, Benjamin, Thomas, Chalkley, and Israel Brown, are, and were at the time of the testator's death, the sole surviving children of Mary Brown, formerly Mary Hartley, who was one of the daughters of Benjamin Hartley, who was one of the sons of Rebecca Aspden, the mother of the testator, and consequently the testator's brother of the half-blood.

Your petitioners aver, that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to them, your petitioners, as it may in justice and equity appertain.

Petition of Rebecca Bolton.

Afterwards, to wit, on the sixth day of July, in the year last aforesaid, the petition of Rebecca Bolton is presented by her solicitor, the said Benjamin Tilghman, esquire; which petition, being read and filed, is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The petition of Rebecca Bolton, widow, a citizen of the State of New Jersey, respectfully showeth: That your petitioner is, as she

firmly believes, entitled to have distribution made to her as the party contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioner is one of the children of Rebecca Kay, whose maiden name was Hartley, and who was a sister of the half-blood of Matthias Aspden, the testator.

Your petitioner avers that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioner prays that she may be admitted as party to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to her claim, as justice may require; and, finally, that the said fund may be decreed to your petitioner, as in justice and equity may appertain.

Amended petition of Edward Hartley and others.

Afterwards, to wit, on the same day, the amended petition of Edward Hartley and others is presented by their solicitor, D. McLaughlin, esq.; which amended petition, being read and filed, is in the words and of the tenor following to wit:

To the honorable the judges of the circuit court of the United States, in and for the district of Pennsylvania.

The amended petition of Edward Hartley and of Thomas Adams, in right of his wife Barsheba, (formerly Barsheba Hartley,) being citizens of the State of Ohio, respectfully showeth: That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioners, Edward Hartley and Barsheba (now Barsheba Adams) aforesaid, are two children of Roger Hartley, who was the the brother of the half-blood by the mother's side of the said Matthias Aspden, the testator.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will,

and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor, and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to your petitioners, as may in justice and equity appertain.

Answer of Henry Nixon to the amended bill.

To the honorable the judges of the circuit court of the United States, third circuit, in and for the district of Pennsylvania.

The answer of Henry Nixon to the bill of complaint, filed as an amended bill of Samuel Packer, complainant.

This defendant, now and at all times hereafter, saving to himself all and all manner of benefit of exception or otherwise, that can or may be had or taken to the many errors, uncertainties, and imperfections in the said bill contained, for answer thereto, or to so much thereof as this defendant is advised it is material or necessary for him to make answer unto, answering, saith: That he has heard and believes that Matthias Aspden, the testator named in the said bill, was formerly a merchant of the city of Philadelphia, and that at some time or other, not known to this defendant, he left that place and went to England. This defendant does not deny that the time may have been that stated in the bill, and he has no knowledge, and neither admits or denies anything with regard to the fact alleged in the bill, that the said Matthias Aspden resided in England until the time of his death, or any thing in relation thereto. The defendant admits that large investments were made by the said Matthias Aspden, as stated in the said bill. He also admits that Matthias Aspden died on or about the day mentioned in the bill, but whether resident in the place mentioned by the complainant he does not know. The defendant believes, and therefore admits, that at the time of making the will mentioned in the complainant's bill, the said Matthias Aspden was possessed of very considerable property in the English and American funds, and of other personal estate and effects to a considerable amount. The defendant also admits that the said Matthias Aspden (whether then resident and domiciled in England the defendant does not know, and submits, if it be important, that proof be made thereof in due and proper manner and form,) made and executed his last will and testament in writing, with three codicils thereto, bearing date the sixth day of December, one thousand seven hundred and ninety-one, and that the said will and codicils are correctly set forth in the complainant's said bill, and that George Roberts and Abraham Liddon, therein named as executors, died in the lifetime of the testator; and that Matthias Aspden departed this life on or about the ninth day of August, one thousand eight hun-

dred and twenty-four, without having revoked or altered his said will, and without issue, he never having been married; and that this defendant was, at the time of the death of the said testator, the president of the Bank of North America, which bank (the defendant entertains no doubt,) the testator meant and intended by the description of the old bank; and that the defendant caused the said will to be duly proved, according to the laws of Pennsylvania, and having received letters testamentary thereon, took on himself the burthen of the execution thereof, and hath possessed himself, as far as he was able, of all the goods and chattels, and other personal estate of the said testator, to a very large amount, more than sufficient to pay the funeral expenses, debts, and legacies of the said testator. This defendant has no knowlege as to the domicil or residence of the said Matthias Aspden from the time of the date of the said will until the period of his death, nor has the defendant any knowlege whether he left the said Samuel Packer his heir-at-law; or as to the chain of consanguinity set forth in the said bill, purporting to connect the said Samuel Packer as heir-at-law with the said Matthias Aspden, the testator; or as to the title of the said complainant, under the said will, to the residue of the personal estate and effects of the said testator, after payment of his funeral expenses, debts, and legacies; all which matters, if material to the complainant, this defendant prays of the court that he may be required to prove.

This defendant further states, that he is willing and ready, and always has been so since he has received and collected the effects belonging to the estate of the said Matthias Aspden, to pay and distribute the same according to law and justice, and as in duty he may be bound to do, and to the person or persons duly entitled to receive the same. But the funds in the hands of the defendant are claimed, not only by the said Samuel Packer, the complainant, but by sundry other persons, each denying the right of the other, or asserting exclusively their own. After sundry proceedings before this honorable court, and before the Supreme Court of the United States, all of which appear upon the records of the said courts, petitions were filed in this honorable court by different persons, which have been received and entertained, and, as the defendant is informed and believes, will be acted on by this honorable court.

On the fifteenth day of June last past, petitions were filed in behalf of John Aspden, of Lancashire, in England; of Janet Jones and Mary Poole, alleging themselves to be the daughters and only children of John Aspden, late of Old street, in the city of London; of John A. Brown, administrator of the goods and chattels, rights and credits, which were of John Aspden, late of Old street, London; of Mary Harrison, by John Brown Francis, in right of his wife Elizabeth, as testamentary guardian of the said Mary Harrison; of George Harrison; of Thomas H. White, Henry Reed, and Elizabeth White Reed, formerly Elizabeth White Bronson, in right of his said wife, Ann Emily Bronson, Hetta Atwater Bronson, and William White Bronson, minor children

of Mary Bronson, deceased, by Thomas H. White, their lawful guardian; and Thomas H. White, executor of the last will and testament of Elizabeth Macpherson, deceased; of James McMurtrie and Rebecca, his wife, in right of his said wife; of Mary Ann Church; of Joseph Worrell and Anne, his wife, in the right of the said Anne; of Mahlon Doan and Rebecca, his wife, late Rebecca Hartley, in right of said Rebecca; of Samuel Champion and Sarah, his wife, late Sarah Zane, in right of said Sarah; of Rebecca Borrough, Ashur Hartley, Bathsheba Brick, Samuel Brick and Elizabeth, his wife, John Brick, Thomas Hartley, Edmund Brown, Mary Brown, Elisha Brown, Benjamin Brown, James Brown, Chalkley Brown, and Israel Brown; of John Zane and Isaac Zane.

And on the sixth day of the present month of July, petitions were filed in behalf of Edward Hartley and Thomas Adams, in right of his wife Barsheba, formerly Barsheba Hartley, and of Rebecca Bolton, respectively, claiming for the several petitioners named in each of the said petitions the fund in the hands of the defendant. Some of the said petitioners aver, that the said Matthias Aspden, the testator, at the time of making his said will, and at the time of his death, and during the whole intermediate period, was domiciled in the city of London, or elsewhere in England, and like averments are made by the said complainant in his amended bill; while others of the said petitioners aver, that Matthias Aspden, the testator, was domiciled in the State of Pennsylvania, at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death. This defendant submits to your honors the materiality and the truth of these several averments, and prays that, if material, due and legal proof may be made in relation thereto. This defendant, under the circumstances aforesaid, is in danger of being greatly harassed on account of the said conflicting and irreconcileable claims, and cannot safely pay the fund aforesaid to any of the said complainants without the aid and protection of this honorable court; and he prays that the said complainants and petitioners may be decreed to adjust their several claims and demands between themselves, or that this honorable court will adjudge and decree between them, as to justice and equity may appear right; this defendant hereby offering to account for and pay the said fund to such of them, the said complainants and petitioners, as the same shall appear of right to belong and be payable to, or to such other persons, if there be any other better entitled than they, as this honorable court shall designate and approve, on being indemnified by this honorable court in so doing. The defendant prays leave to suggest, with regard to certain petitioners above referred to, that transactions have occurred which may render a special defence applicable to their case, which will not apply to the case of the complainant, or that of the other petitioners; he therefore asks leave, with regard to the petitions of Janet Jones and Mary Poole, alleging themselves to be the daughters and only children of John Aspden, late of Old street, in the city of London, and of John A. Brown,

administrator of the goods and chattels, rights and credits, which were of the said John Aspden, late of Old street, London, to file special pleas along with this his amended answer.

This defendant further states, that proceedings are now depending before the orphan's court for the city and county of Philadelphia, for the settlement and adjustment of his accounts as executor of Matthias Aspden aforesaid, the same being a court of final jurisdiction, and having full cognizance of the matter. He respectfully asks that this honnorable court will, in the consideration of the complainant's bill, and the petitions aforesaid, have such regard to the said proceedings, as to make no decree that can prejudice the defendant in relation thereto, but that, in his rights and obligations towards another and a competent tribunal, he may be preserved and protected.

The defendant annexes to his answer a true and correct statement of the fund under his control, belonging to the said estate, exhibiting the manner in which it is now invested.

And this defendant denies all and all manner of unlawful combination and confederacy; without this, that there is any other matter, cause, or thing, in the said bill of the complainant, or in the said petitions contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed and avoided, or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain, and prove, as this honorable court shall provide for; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

J. R. INGERSOLL,
For the defendant.

Henry Nixon, the defendant, being duly sworn according to law, deposeth and saith, that the facts and statements contained in the foregoing answer, so far as they are derived from his own knowledge and within the same, are true, and so far as they are derived from the information of others, they are true, to the best of his knowledge, judgment, and belief.

H. NIXON.

Sworn and subscribed, this fourth day of August, 1835, before me.

A. PETTIT,
Alderman.

Henry Nixon, executor, in account with estate of Matthias Aspden.

	Dr.		
1833.			
Dec. 28,	The executor charges himself with the balance of account rendered, and filed in the office of register of wills, &c.		$410,627 65
1834.			
Feb. 1,	Cash received for interest on Pennsylvania State five per cent. stock	$3,350 00	
	Interest on city of Philadelphia five per cent. loan	125 00	
	Dividend on 300 shares Bank of the United States	1,050 00	
	Do. on 20 shares do. do.	70 00	
5,	Interest on notes discounted on collateral security	275 00	
8,	Do. do. do. do. do.	1,198 92	
July 8,	Interest on city of Philadelphia five per cent. loan	125 00	
16,	Do. on Union canal loan	30 00	
18,	Dividend on 300 shares Bank of the United States	1,050 00	
	Do. on 20 do. do. do. do.	70 00	
23,	Do. on Girard Bank stock	75 00	
Aug. 1,	Interest on Pennsylvania five per cent. stock	3,350 00	
8,	Interest on notes discounted on collateral security	1,213 62	
Oct. 1,	Final dividend from old Bank of the United States	20 50	
16,	Interest on Union Canal loan	30 00	
	Interest on notes discounted on collateral security	3,453 08	
1835.			
Jan. 2,	Interest on city of Philadelphia five per cent. loan	125 00	
15,	Dividend on 300 shares Bank of the United States	1,050 00	
	Do. on 20 do. do. do. do.	70 00	
16,	Do. on Union canal loan	30 00	
Feb. 19,	Interest on notes discounted on collateral security.	5,132 47	
	Interest on Pennsylvania State five per cent. stock	6,267 13	
April 16,	Interest on Union canal loan	30 00	
	Interest on city of Philadelphia five per cent. stock	125 00	
	Interest on notes discounted on collateral security	1,605 16	
July 16,	Bank interest due from Union Canal Company for interest on loan due July and October, 1833, with interest, (scrip)	85 20	
	Interest on notes discounted on collateral security	5,435 75	
	Interest on Union canal loan	30 00	
17,	Dividend on 300 shares of Bank of the United States	1,050 00	
	Do. on 20 do do. do. do.	70 00	
18,	Do. on Girard bank stock	100 00	
Aug. 1,	Interest on notes discounted on collateral security	1,099 60	
	Interest on bonds and mortgages	1,066 67	
	Interest on Pennsylvania State five per cent. stock	6,850 00	
	Dividend on Girard bank stock, received November 18th, 1834, and omitted	100 00	
			45,808 10
			$456,435 75

ACCOUNT—Continued.

	Cr.		
1833.	The executor claims allowance for the following sums paid by him:		
1834.			
Jan. 10,	Cash paid F. Hopkinson, esq., clerk of the district court	$75 59	
Feb. 1,	Lydia R. Bailey, for printing documents per order of the court	46 10	
May 24,	B. Tilghman's, esq., account	75 87	
July 10,	F. Hopkinson, esq., clerk of the district court	121 37	
1835.			
Feb. 1,	Advance and brokerage on one hundred and forty thousand dollars invested in Pennsylvania State five per cent. stock, as per bill		$14,523 23
June 16,	Paid B. Tilghman, esq	1 75	
	William T. Carroll, for expenses of appeal to Supreme Court at Washington	230 51	
	H. Nixon's expenses to Washington to attend the Supreme Court	80 00	
			631 19
	Commission for receiving interest and dividends, $45,808 10, at 2½ per cent	1,145 20	
	Commission on investing one hundred and forty thousand dollars in Pennsylvania State five per cent. stock, cost $154,523 23, at 2½ per cent	3,863 07	
			5,008 27
Aug. 1,	Balance in hands of executor		$436,273 06

SCHEDULE.

Pennsylvania State five per cent. stock	$140,000	
Do. do. do. do.	134,000	
		$274,000 00
Bills receivable on collateral security		72,574 09
Stock in Bank of the United States, 320 shares		32,000 00
Stock in Girard Bank, 50 shares		3,007 50
City of Philadelphia five per cent. stock		5,000 00
Union canal loan		2,000 00
H. J. Williams's mortgage		12,000 00
J. McAlister's do.		16,843 75
Charles Shippen's do.		5,000 00
J. Hay's do.		3,905 00
Cash in bank		9,942 72
		$436,273 06

Replication of John A. Brown, administrator.

Afterwards, to wit, on the third day of October, in the year last aforesaid, the replication of John A. Brown, administrator of John Aspden, of London, is presented by his said solicitor, H. J. Williams, esquire; which replication, being read and filed, is in the words and of the tenor following, to wit:

In the circuit court of the United States, for the district of Pennsylvania, in the third circuit.

The replication of John A. Brown, of the city of Philadelphia, administrator of the goods and chattels, rights and credits, which were of John Aspden, late of Old street, London, deceased, to the answer of Henry Nixon, executor as aforesaid, defendant.

This repliant, saving and reserving to himself all and all manner of advantage of exception which may be had and taken to the manifold errors and uncertainties and insufficiencies of the answer of said defendant, for replication thereunto says, that he will and doth aver, maintain, and prove the petition or bill, by him filed in this cause, to be true, certain, and sufficient in the law to be answered unto by the said defendant; and that the answer is very uncertain, evasive, and insufficient in the law to be replied unto by this repliant; without this, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, confessed, traversed, or denied or avoided, is true; all which matters and things this repliant is ready to aver, maintain, and prove as this honorable court shall direct; and humbly prays, as in and by his said petition or bill aforesaid he has heretofore prayed.

Replication of Jennet Jones and Mary Poole.

Afterwards, to wit, on the fifth day of the same month and year aforesaid, the replication of Jennet Jones and Mary Poole is presented by their said solicitor, James S. Smith, esquire; which replication, being read and filed, is in the words and of the tenor following, to wit:

In the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit.

The replication of Janet, otherwise Jennet, Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, both of the city of London, to the answer of H. Nixon, executor as aforesaid, defendant.

These repliants, saving and reserving to themselves all and all manner of advantage of exception which may be bad and taken to the manifold errors, uncertainties, and insufficiencies of the answer of said defendant, for replication thereunto say, that they do and will aver, maintain, and prove their petition or bill by them filed in this cause to be true, certain, and sufficient in the law to be answered unto by the said defendant; and that the answer is very uncertain, evasive, and insufficient

in the law to be replied unto by these repliants; without this, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and herein and hereby well and truly and sufficiently replied unto, confessed or avoided, traversed or denied, is true. All which matters and things these repliants are ready to aver, maintain, and prove, as this honorable court shall direct, and humbly pray as in and by their said bill or petition they have already prayed.

Replication of Samuel Packer, complainant.

Afterwards, to wit, on the same day, the replication of Samuel Packer, complainant, is presented by his said solicitor, William Rawle, jr., esquire; which replication, being read and filed, is in the words and of the tenor following, to wit:

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit.

The replication of Samuel Packer, complainant, to the answer of Henry Nixon, defendant.

This repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of said answer, for replication thereunto saith, that he will aver and prove his said bill to be true, certain, and sufficient in law to be answered unto, and that the said answer of the defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; without that, that any other matter or thing whatsoever in said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his said bill he hath already prayed.

Replication of John Aspden, of Lancashire.

Afterwards, to wit, on the same day, the replication of John Aspden, of Lancashire, England, is presented by his said solicitor, James M. Broom, esquire; which replication, being read and filed, is in the words and of the tenor following, to wit:

In the circuit court of the United States, eastern district of Pennsylvania, third circuit.

The replication of John Aspden, claimant, to the answer of H. Nixon, executor &c., defendant.

This repliant, saving and reserving to himself all and all manner of advantage of exception to the manifold errors, uncertainties, and insufficiencies of the answer of the said defendant, for replication thereto says, that he does and will aver, maintain, and prove his said petition, or bill or claim, by him filed in this cause, to be true, certain, and sufficient in the law to be answered unto by the said defendant; and that the answer of the defendant is uncertain, untrue, and insufficient

in the law to be replied to by this claimant or repliant; without this, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and herein and hereby well and truly and sufficiently replied unto, confessed or avoided, traversed or denied, is true. All which matters and things this repliant is ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays as in and by his said petition, or claim or bill, he has already prayed.

Replication of Samuel Champion and wife.

Afterwards, to wit, on the sixth day of the same month and year aforesaid, the replications of Samuel Champion and wife, and others, are presented by the solicitor of the respective repliants; which replications, being read and filed, are in the words and of the tenor following, to wit:

The replication of Samuel Champion and Sarah, his wife, late Sarah Zane, in right of said Sarah, petitioners and claimants, to the answer of Henry Nixon, defendant:

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

Replication of Thomas H. White and others.

The replication of Thomas H. White, Henry Reed and Elizabeth W., his wife, in her right; Ann Emily Bronson, Hetta Atwater Bronson, and William White Bronson, minors, by Thomas H. White, their guardian; and Thomas H. White, executor of the last will of Elizabeth McPherson, deceased, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by the said repliants; without this, that any other matter or thing whatsoever, in the said answer contained, material or effectual in the law to be replied

unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

Replication of George Harrison.

The replication of George Harrison, petitioner and claimant, to the answer of Henry Nixon, defendant.

This repliant, saving and reserving unto himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith, that he will aver and prove his said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by his petition he hath already prayed.

Replication of Joseph Worrell and wife.

The replication of Joseph Worrell and Anne, his wife, in right of the said Anne, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition *the* have already prayed.

Replication of Mary Ann Church.

The replication of Mary Ann Church, petitioner and claimant, to the answer of Henry Nixon, defendant.

This repliant, saving and reserving unto herself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says, that she will aver and prove her

said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by the said repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by her said petition she has already prayed.

Replication of Rebecca Bolton.

The replication of Rebecca Bolton, petitioner and claimant, to the answer of Henry Nixon, defendant.

This repliant, saving and reserving unto herself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says, that she will aver and prove her said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by the said repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by her said petition she has already prayed.

Replication of Mary Harrison.

The replication of Mary Harrison, by John Brown Francis, in right of his wife Elizabeth, as testamentary guardian of the said Mary Harrison, petitioner and claimant, to the answer of Henry Nixon, defendant.

This repliant, saving and reserving unto herself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto says, that she will aver and prove her said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by the said repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver and prove, as this honorable court shall direct, and humbly prays as in and by her said petition she has already prayed.

Replication of James McMurtrie and wife.

The replication of James McMurtrie and Rebecca, his wife, in right of the said Rebecca, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by the said repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

Replication of Mahlon Doan and wife and Ann Ellis.

The replication of Mahlon Doan and Rebecca Doan, in right of said Rebecca, and Ann Ellis, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

Replication of John and Isaac Zane.

The replication of John Zane and Isaac Zane, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and

things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

Replication of Edward Hartley and others.

The replication of Edward Hartley, Thomas Adams and Barsheba, his wife, in right of his said wife, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

Replication of Rebecca Burrough and others.

The replication of Rebecca Burrough, Asher Hartley, Bathsheba Brick, Samuel Brick and Elizabeth, his wife, John Brick, Thomas Hartley, Edmund Brown, Mary Brown, Benjamin Brown, Thomas Brown, Chalkley Brown, and Israel Brown, Samuel Champion, in right of his wife, Sarah Champion, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

(Filed 7th October, 1835.)

Petition of Aaron Zane and others.

The petition of Aaron Zane, (widow of Samuel,) Ebenezer Zane, Eaton Zane, John Zane, Bersheba Zane, Jane Zane, and Joseph Edwards and Rebecca, his wife, in right of said Rebecca, late Rebecca Zane, respectfully showeth:

That your petitioners are, as they firmly believe, entitled to have

distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioners are the widow and children of Samuel Zane, who was the son of Bersheba (or Bathsheba) Zane, who was one of the lawful issue of Rebecca Aspden, the mother of the testator, by her former marriage with Roger Hartley; and the said Samuel Zane died about twelve months past.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to them, the said petitioners, as it may in justice and equity appertain.

And your petitioners, &c.

SAML. DAVIS,
Solicitor for petitioners.

(Filed 12th October, 1835.) Oct. 6, 1835.

Replication of Aaron Zane and others.

The replication of Aaron Zane, Ebenezer Zane, Eaton Zane, John Zane, Bersheba Zane, Jane Zane, and Joseph Edwards and Rebecca, his wife, late Rebecca Zane, in right of said Rebecca, children, and Jane Zane, widow of Samuel Zane, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto; and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by these repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

SAMUEL DAVIS,
Solicitor for said petitioners.

(Filed 12th October, 1835.) October 6, 1835.

Petition of Elizabeth Hinchman and others.

The petition of Elizabeth Hinchman, of the Commonwealth of Pennsylvania, widow of John Hinchman; of Joseph Heritage and Catharine, his wife, late Hinchman, citizens of the said commonwealth; of Joseph White and Hannah, his wife, late Hannah Hinchman, citizens of the said commonwealth; and of Benjamin Thoms and Rebecca, his wife, late Hinchman, citizens of the Commonwealth of New Jersey,

Respectfully showeth:

That your petitioners are, as they firmly believe, entitled to have distribution made to them as the parties contemplated in and by the will of Matthias Aspden, deceased, late of the city of Philadelphia; which will is set forth in certain proceedings instituted in this honorable court, consisting of a bill filed by Samuel Packer against Henry Nixon, executor of Matthias Aspden, deceased, and the answer of the said Henry Nixon; the same being filed as No. 1, to April session, 1828.

Your petitioner, Elizabeth Hinchman, is the widow of John Hinchman; and your petitioners, Catherine Heritage, Hannah White, and Rebecca Thoms, are the children of the said John Hinchman, who was the son of Anne Hinchman, late Anne Hartley, a sister of the half-blood of the testator.

Your petitioners aver that the said Matthias Aspden, the testator, was born in the State of Pennsylvania, and that he was domiciled in the said State of Pennsylvania at the time of making his said will, and also at the time of his death, and also during the whole period which intervened between the making of the said will and his death.

Your petitioners pray that they may be admitted as parties to the said suit, for the purpose of claiming the fund in the hands of the said executor; and that your honors will be pleased to direct such inquiries to be made, as to their claim, as justice may require; and, finally, that the said fund may be decreed to them, as it may in justice and equity appertain.

And your petitioners will ever pray, &c.

P. McCALL,
Solicitor for petitioners.

(Filed 26th October, 1835.

Pleas in bar of Henry Nixon to the petition of Jennet Jones and Mary Poole.

Afterwards, to wit, on the twenty-seventh day of October, and year last aforesaid, on motion of J. R. Ingersoll, esquire, solicitor for Henry Nixon, the respondent, leave nisi is granted to file pleas in bar to the bills or petitions of Jennet Jones and Mary Poole, and of John A. Brown, administrator of John Aspden, of London; which pleas in bar are in the words and of the tenor following, to wit:

Circuit court of the United States for the eastern district of Pennsylvania, in the third circuit. April sessions, 1828, No. 1.

The plea of Henry Nixon, the defendant, to the bill or petition of Janet, otherwise Jennet, Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, both of the city of London, and subjects of the King of the united kingdom of Great Britain and Ireland.

This defendant, by protestation, not confessing or acknowledging all or any of the matters and things in the said complainant's bill or petition mentioned to be true, in such manner and form as the same are therein and thereby set forth and alleged, doth plead in bar to the said bill or petition, and for plea saith: That John Aspden, in the said bill or petition of the said complainants alleged to have been the heir-at-law of Mathias Aspden, the testator, at the time of the death of the said Mathias, and as such the general devisee or legatee in his said last will intended and described, of the whole of the personal estate of the said Mathias, and since deceased, exhibited his original bill of complaint in the high court of chancery of that part of the united kingdom of Great Britain and Ireland called England, which was afterwards amended by an order of the said court, bearing date the 28th day of May, 1827, against this defendant, and against Samuel Williams, John Sterling, the governor and company of the Bank of England, the honorable company of merchants trading to the East India, the honorable company of merchants trading to the South seas, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, thereby stating and charging the same matters and things, in substance, as are stated and charged in the bill or petition of said complainant in this court; and thereby praying that an account might be taken by the direction of the said high court in chancery of the personal estate and effects of the said Mathias Aspden, possessed or received by, or come to the hands of, this defendant, or any person or persons by his order or for his use, or got in, or possessed, or secured in any way since the decease of the said Mathias Aspden; and that such personal effects and estate might be applied in payment of the said Mathias Aspden's funeral and testamentary expenses, and debts and legacies, in a due course of administration; and that the residue of such personal estate and effects might be ascertained, and that the said complainant, John Aspden, might be declared by the high court of chancery to be entitled, upon the true construction of the will of the said Mathias Aspden, in the said bill of complaint of the said John Aspden set forth, as heir of the said testator, Mathias Aspden, to such residue; and that such residue might be accordingly directed by the said court of chancery to be paid to the said complainant, John Aspden; and that, in the mean time, this defendant might be restrained, by injunction of the said court, from withdrawing from England any part of the personal estate and effects of the said testator, and the said Samuel Williams and John Sterling from receiving or remitting the said estate and effects, or any part, to

this defendant; and particularly from selling or transferring the bank stock, three per cent. consolidated bank annuities, reduced three and a half per cent. bank annuities, new four per cent. bank annuities, East India stock, and South Sea stock, standing in the testator's name; and mentioned in the said complainant's bill of complaint, and from receiving the dividends thereon respectively; and the moneys, securities, and effects in the hands of the Messrs. Hoares, or any other, the personal estate and effects of the said testator, in England; and also to restrain the said governor and company of the Bank of England, and the said honorable East India company, and the said honorable South Sea company respectively, from making, or permitting to be made, any transfer or sale of such stock or bank annuities, or any part of the same respectively; and also to restrain the Messrs. Hoares from paying over all or any part of the moneys, securities, and effects of the said testator in their hands; and also that the governor and company of the Bank of England might be directed to transfer the said respective stocks and annuities then standing in the name of the said testator in their books, and all dividends accrued, due thereon respectively, unto the name of the accountant general of the said high court of chancery; and also that proper directions might be given for the sale of the said stocks there respectively standing in the name of the said testator, in the respective books of the East India company, and the South Sea company; and that the moneys arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid into the said high court of chancery, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the said accountant general, in trust in the said cause; and that the said defendants, Henry Hugh Hoare, Charles Hoare, Henry Merrick Hoare, might be restrained from paying and delivering the moneys, securities, and effects of the testator in their hands to this defendant, or the said Samuel Williams and John Sterling; and that the said Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, might be ordered to pay the said moneys of the said testator in their hands unto the said court of chancery; and that the said defendants, Samuel Williams and John Sterling, might be restrained, by the injunction of the said court, from remitting any part of the estate and effects of the said testator in England to this defendant; and that some proper person might be appointed by the said high court of chancery to receive and get in all the personal estate and effects of the said testator, and for further relief. And this defendant further saith, that by an order of the said high court in chancery, bearing date the 9th day of August, 1825, such injunction to restrain the sale and transfer of the said stock and funds, and the receipt of the dividends thereof, as hereinafter is mentioned to have been dissolved, was granted; and that, by an order dated the 31st day of July, 1826, made in the said cause, in the said high court of chancery, certain moneys, part of the estate of the said Mathias Aspden, were ordered to be paid into court, and the same were accordingly paid into court.

And this defendant further saith, that this defendant, and the other defendants to the said bill of complaint in the high court of chancery, except the said Esther Hartley, who was out of the jurisdiction, put in their respective answers to the said bill of complaint of the said John Aspden; and this defendant by his said answer stated, amongst other things, that he believed that Mathias Aspden, the testator in the said bill named, was born on or about the year 1756, at Philadelphia, in North America, being the place of residence of his parents; that he continued to reside, and was afterwards engaged in business as a merchant, with some success, before he was twenty-one years of age; and that upon the breaking out of the war between Great Britain and America, in the year 1776, or some time in that year, being still a minor, he went to England, with what view this defendant was not able, from his own knowledge, to say; but he believed he went with an impression that the power of Great Britain must soon prevail in putting down the resistance made in America; and that the testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stocks, and in other securities; and that he made his will and codicil thereto at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the said testator went back to England as his home, or only for the purpose of superintending his property there; and whether the said testator did in fact change his domicil, this defendant did not know, and was unable to answer from his belief, or otherwise; but that this defendant believed that the said testator, when in England, considered himself an alien, and as such claimed to have returned the tax from his dividends while he was absent from England, according to the provisions of the act exempting aliens from the tax, if not resident in England.

And this defendant further saith, that the said John Aspden, the complainant in the said cause in the high court of chancery, having departed this life, whereby the said suit in the said court was abated, Jennet, otherwise Janet, Jones, and Thomas Poole and Mary, his wife, which Jennet, or Janet, and Mary were the only children and next of kin of the said John Aspden, on or about the 18th day of March, 1828, exhibited their bill of revivor in the said high court of chancery against this defendant and the other defendants in the said original and amended bill in the said high court of chancery, therein stating the said proceedings in the said original cause, and the death of the said complainant, John Aspden, intestate, leaving the said complainants, Janet Jones and Mary Poole, his only children and next of kin; and that the said Janet Jones and Mary Poole had obtained letters of administration of the goods and chattels, debts and credits, of the said intestate, to be granted to them out of the prerogative court of the Archbishop of Canterbury, and thereby praying that the said suit and proceedings, which so became abated, as therein and heretofore mentioned, might stand revived, and be in the same plight and condition as the same were in at the time of the death of the said John Aspden.

And this defendant further saith, that the said suit was afterwards duly revived, and that this cause being at issue, came on to be heard before his honor the chancellor of England, on the 17th day of July, 1830, when his honor was pleased to order and decree that the injunction awarded in the original cause of Aspden against Nixon, pursuant to an order made in the said cause, bearing date the 9th day of August, 1825, to restrain the defendants, Samuel Williams and John Sterling, from selling or transferring the four thousand pound bank stock, ten thousand pound three pound per cent. consolidated bank annuities, six thousand pound three pound ten shilling per cent. reduced annuities, and six thousand pounds bank four pound per cent. annuities not assented to, (the said six thousand five hundred pound and six thousand pound in the said injunction stated by mistake as twelve thousand five hundred pound reduced three pound ten shilling per cent. annuities, and three thousand five hundred pound new four pound per cent. annuities,) and the said last named defendants to be restrained from selling or transferring the said three thousand pound East India stock and five thousand South Sea stock; and that the said defendants, Samuel Williams and John Stirling, should be in like manner restrained from receiving any dividends due or to become due on the said bank annuities and stocks respectively, save and except the dividends then already due on the said East India stock and South Sea stock; and that the said defendants, the governor and company of the Bank of England, should be also restrained from making or permitting to be made any transfer or sale of the said bank annuities or stocks, and from paying any dividends thereon; and that the said defendants, the East India company, should be in like manner restrained from making, or permitting to be made, any sale or transfer of the three thousand pound East India stock; and that the said defendants, the South Sea company, should be in like manner restrained from making, or permitting to be made, any transfer or sale of the five thousand pound stock; and that the said defendants, the East India company and the South Sea company, should also be in like manner restrained from paying any future dividends to accrue due upon the said East India company and South Sea stock respectively, until the defendants should fully answer the said bill, or the said court should make other order to the contrary, should be dissolved; and that the sum of £228 1 11 each, in the bank, placed to the credit of the cause of Aspden vs. Nixon, should be paid to the defendant, Henry Nixon; and for the purpose aforesaid, the accountant general of the said court was to draw on the bank, according to the form prescribed by the act of parliament, and the general rules and orders of the court in that case made and provided; and that the said complainant's said bill should stand dismissed out of the said court, with costs to be taxed by the master of the said court in rotation.

And this defendant further saith, that the said decree has been duly signed and enrolled; and this defendant doth aver, that the said suit in the said high court of chancery, so as aforesaid revived and brought to

hearing by the said complainants, Jennet Jones, otherwise Janet Jones, and Thomas Poole and Mary, his wife, administrators of the said John Aspden, against this defendant, and the said other defendants thereto, was for the same matters and things, and to the same effect, and for the like relief and purposes as against this defendant, the said complainants or petitioners, by their said present bill of complaint or petition in this court sets forth, seeks relief for.

And this defendant saith, that the said Thomas Poole has since departed this life, leaving the said Jennet or Janet Jones to survive him; and this defendant avers, that the said Jennet or Janet are the same persons by whom the present bill of complaint or petition is exhibited in this honorable court.

(And this defendant also avers, that the said Matthias Aspden, at the time of the making of his last will, and at the time of his death, and during the whole intermediate period between the making of his will and his death, was domiciled in London, or elsewhere in England.) [Struck out by order of the court on the 28th December, 1835, to amend.]

And therefore this defendant doth plead the said decree of the said high court in chancery, signed and enrolled as aforesaid in bar to the said complainants' or petitioners' present bill of complaint or petition in this honorable court, and humbly prays the judgment of this honorable court, whether he shall be compelled to make any or other answer thereto. And this defendant prays to be hence dismissed, as far as relates to said petition or bill, with his reasonable costs in this behalf wrongfully sustained.

J. R. INGERSOLL,
For defendant.

Henry Nixon, the defendant in the annexed plea named, being duly sworn according to law says, that the said plea is true to the best of his knowledge, judgment, and belief. That he has seen certain papers purporting to be copies of the bill of complaint and other proceedings in the high court of chancery in England, stated in the said plea, which he believes to be true and genuine, and he firmly believes the proceedings took place as they are set forth in the said plea. He has seen a paper purporting to be the copy of an affidavit made by Thomas Peters, of Hemlock court, Carey street, in the county of Middlesex, verifying the copy of a decretal order of the court of chancery aforesaid, wherein Esther Hartley is named as one of the defendants, and as being out of the jurisdiction of the court; and she is named and referred to in like manner in the paper purporting to be a copy of such decretal order, which the deponent has seen and read; wherefore the defendant believes she was out of the jurisdiction of the said court. He cannot say whether her answer was actually filed, although, as stated in the said plea, he believes that the other defendants, except the said Esther Hartley, put in their respective answers.

The defendant further says, that a certain petition was filed on the

fifteenth of June, 1835, or about that time, in the circuit court of the United States, for the eastern district of Pennsylvania, in behalf of Jennet Jones, otherwise Janet Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, whereby it is stated and made to appear that they, the said petitioners, are the daughters and only children of John Aspden, late of Old street, in the city of London; and whereby it also appears that Thomas Poole is dead, and the defendant believes that they, the said Jennet Jones and Mary Poole, are the same persons by whom the bills of complaint and revivor in chancery, and bill in the exchequer, were filed.

H. NIXON.

Sworn and subscribed this thirteenth day of June, 1836, in open circuit court. FRANCIS HOPKINSON,
Clerk C. C. U. S.

PACKER vs. NIXON. } No. 1.—In equity.

Circuit court of the United States, for the eastern district of Pennsylvania, in the third circuit, April session, 1828.

The plea of Henry Nixon, the defendant, to the bill or petition of Jennet, otherwise Janet Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, both of the city of London, and subjects of the King of the united kingdoms of Great Britain and Ireland.

This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said complainant's bill or petition mentioned to be true, in such manner and form as the same are therein and thereby set forth and alleged, doth plead in bar to the said bill or petition, and for plea saith, that Jennet otherwise Janet Jones, of Old street, in the parish of St. Luke, in the county of Middlesex, widow, and Thomas Poole, of Hoxton, in the same county, yeoman, and Mary his wife, administrators of John Aspden, of Old street, London, deceased, exhibited their original bill of complaint in the court of exchequer at Westminster, in that part of the united kingdom of Great Britain and Ireland called England, against this defendant, and against the governor and company of the Bank of England, the East India company, and the South Sea company, and against Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, therein and thereby stating and charging, in substance, the same matters and things as are stated and charged in the bill or petition of the said complainant in this court, thereby praying that the defendant, Henry Nixon, might set forth an account of the personal estate and effects of the said testator, possessed by him, or by any person or persons by his order, or for his use, and how, and in what manner, the same has been disposed of; and that an account might be taken by, and under the direction of, the said court of exchequer, of the per-

sonal estate and effects of the said testator, possessed or received by, or come to the hands of, the said defendant Henry Nixon, or of any other person or persons by his order, or for his use; and that such personal estate and effects might be applied, so far as the same had not already been done, in payment of the funeral and testamentary expenses, debts, and legacies of the said testator, Matthias Aspden, in a due course of administration; and that the residue of such personal estate and effects might be ascertained; and that John Aspden, (who, in the said bill or petition of the said complainant in this honorable court, is alleged to have been the heir-at-law of Matthias Aspden, the testator, and, as such, the general devisee, in his said last will intended and described, of the whole of the personal estate of the said Matthias,) and who is since deceased, might be declared by the said court of exchequer to have been entitled, under the will of the said testator, as the heir-at-law of the said testator, according to the law of England, to such residue; and that such residue might be directed by the said court of exchequer to be paid and transferred to Jennet otherwise Janet Jones, and Thomas Poole and Mary, his wife, the complainants in the said bill in the said court, as the personal representatives of the said John Aspden, deceased; and that, in the mean time, the said defendant Henry Nixon might be restrained, by the injunction of the said court, from collecting or receiving any part of the personal estate and effects of the said testator in England, and particularly from selling or transferring the sums of £4,000 bank stock, £10,000 three per cent. consolidated bank annuities, £6,500 reduced 3½ per cent. bank annuities, and £3,500 new four per cent. annuities, standing in the books of the governor and company of the Bank of England in the name of the said testator; and from selling, transferring, or receiving the sum of £6,000 four per cent. annuities, (not assented to take three pounds ten shillings per cent. per annum in lieu thereof, in the manner and at the times required by the act of the fifth *of* year of the reign of his late majesty, the King of the united kingdom of Great Britain and Ireland,) also standing in the books of the said governor and company of the Bank of England in the name of the said testator; and from selling or transferring the sum of £3,000 stock standing in the books of the said East India company in the name of the said testator; and the sum of £5,000 stock standing in the books of the South Sea company in the name of the said testator, and from receiving the dividends or interests upon any of the several stocks or funds as aforesaid; and that the said defendants, the governor and company of the Bank of England, and the said defendants, the East India company, and the said defendants, the South Sea company, might be respectively restrained from permitting any transfers of such respective sums to be made; and that the said defendants, the governor and company of the Bank of England, might be directed to transfer the said respective stock, there standing in the name of the said testator in the said books, and all dividends accrued thereon respectively, into the name of the accountant general of the said court of exchequer, in trust in the said cause, and to pay into the bank, to

the credit of the accountant general in the said cause, the sum of £6,000, payable in respect of the same sum of four per cent. annuities there standing in the name of the said testator, not assented to as aforesaid; and that proper directions might be given for the sale of the said stock, respectively, standing in the name of the said testator in the respective books of the East India company and the South Sea company; and that the money arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the accountant general, in trust in the said cause; and that some proper person might be appointed by the said court to receive and get in all other outstanding personal estate and effects of the said testator, and for further relief.

And this defendant further saith, that this defendant put in his plea in bar to the said bill of complaint, and in said plea, among other things, stated, that John Aspden, in the said bill of complaint alleged to have been the heir-at-law, according to the law of England, of Matthias Aspden, the testator in the said bill of complaint named, at the time of the death of the said testator, and to be since deceased, on or about the 30th day of July, 1825, exhibited his original bill of complaint in the high court of chancery in England, which was afterwards amended, by order of the said court, bearing date the 28th day of May, 1827, against this defendant and the other defendants to the said bill of complaint of the said complainants in the said court of exchequer, and also against Samuel Williams and John Sterling, therein named as the attorneys of this defendant, to collect and receive the property and effects of the said testator in England; and Esther Hartley, therein named, alleged to claim to be entitled to a share of the property of the said testator, as one of his next of kin, and to be out of the jurisdiction of the said court of chancery, thereby stating and charging the same matters and things as were stated and charged in the said bill of complaint of the said complainants in the said court of exchequer, save as to the death of the said John Aspden, and as to the said complainants having become his legal personal representative; and thereby praying that an account might be taken, by the direction of the said high court of chancery, of the personal estate and effects of the said Matthias Aspden, possessed by, or received by, or come to the hands of, this defendant, or of any other person or persons by his order, or for his use, or got in, or possessed, or received in any way since the decease of the said Matthias Aspden; and that such personal estate and effects might be applied in payment of the said Matthias Aspden's funeral and testamentary expenses, and debts and legacies, in a due course of administration; and that the residue of such personal estate and effects might be ascertained; and that the said complainant, John Aspden, might be directed by the said court of chancery to be entitled, upon the true construction of the will of the said Matthias Aspden, in the said bill of complaint of the said John Aspden set forth, as heir of the said testator Matthias Aspden, to such residue; and that such residue might be accordingly

directed by the said court of chancery to be paid to the said complainant, John Aspden; and that in the mean time this defendant, and the defendants, Samuel Williams and John Sterling, might be restrained, by the injunction of the said court, from collecting and receiving any part of the personal estate and effects of the said testator Matthias Aspden, in England, and particularly from selling and transferring the sums of £4,000 bank stock, £10,000 three pound per cent. consolidated bank annuities, £6,500 reduced 3½ per cent. bank annuities, [?] four pound per cent. annuities, not assented to take £3 10 0 per cent. per annum in lieu thereof, in the manner and at the times required by an act of parliament of the fifth year of his then majesty, King George the 4th, and £3,500 new four per cent. bank annuities, then standing in the books of the said governor and company of the Bank of England in the name of the said testator Matthias Aspden; and the sum of £3,500 stock standing in the books of the said East India company in the name of the said testator; and the sum of £5,000 stock standing in the books of the South Sea company in the name of the said testator; and from receiving the dividends or interest thereon, respectively, and the moneys, securities, and effects then in the hands of Messrs. Hoares, as bankers of the said testator; and that the governor and company of the Bank of England, and the East India company, and the South Sea company, all of them defendants to the said bill of complaint in the said high court of chancery, might be respectively restrained from permitting any transfer of such respective sums to be made; and also that the governor and company of the Bank of England might be directed to transfer the said respective stock and annuities then standing in the name of the said testator in their books, and all dividends accrued [and] due thereon respectively, unto the name of the accountant general of the said high court of chancery; and also that proper directions might be given for the sale of the said stock then respectively standing in the name of the said testator in the respective books of the East India company and the South Sea company; and that the moneys arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid unto the said high court of chancery, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the said accountant general of such last mentioned court, in trust in the said cause; and that the said defendants, Henry Hugh Hoare, Charles Hoare, Henry Merrick Hoare, might be restrained from paying and delivering the moneys, securities, and effects of the said testator in their hands to this defendant, or the said Samuel Williams and John Sterling; and that the said Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, might be ordered to pay the said money of the said testator in their hands into the said court of chancery; and that the said defendants, Samuel Williams and John Sterling, might be restrained, by the injunction of the said court, from remitting any part of the estate or effects of the said testator in England to this defendant; and that some proper person might be

appointed by the said high court of chancery to receive and get in all the personal estate and effects of the said testator, and for further relief.

That by an order of the said high court of chancery, bearing date the 9th day of August, 1825, such injunction to restrain the sale and transfer of the said funds and stocks, and the receipt of the dividends thereof, as in the said plea was afterwards mentioned to have been dissolved, was granted, and that by an order dated the 31st day of July, 1826, made in the said cause, in the said high court of chancery, certain moneys, part of the estate of the said Matthias Aspden, were ordered to [be] paid into court, and the same were accordingly paid into court. That this defendant and the other defendants in the said bill of complaint in the high court of chancery, except the said Esther Hartley, who was out of the jurisdiction, put in their respective answers to the said bill of complaint of the said John Aspden; and this defendant by his said answer stated, among other things, that he believed that Matthias Aspden, the testator in the said bill named, was born on or about the year 1756, at Philadelphia, in North America, being the place of residence of his parents; that he continued to reside, and was afterwards engaged in business, at Philadelphia, as a merchant, with some success, before he was 21 years of age; and that upon the breaking out of the war between Great Britain and America, in the year 1776, or some time in that year, being still a minor, he went to England, with what view this defendant was not able from his own knowledge to say, but he believed he went with an impression that the power of Great Britain must soon prevail in putting down the resistance made in America; and that the said testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stocks and other securities; and that he made his will and the codicils thereto at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the said testator went back to England as his home, or only for the purpose of superintending his property there; whether the said testator did in fact change his domicil, this defendant did not know, and was unable to answer, from his belief or otherwise; but this defendant believed that the said testator, when in England, considered himself an alien, and as such claimed to have returned the tax from his dividends while he was absent from England, according to the provisions of the act exempting aliens from tax if not resident in England. That the said John Aspden, the complainant in the said cause in the said high court of chancery, having departed this life, whereby the said suit in the said court became abated, the said complainants, Jennet, otherwise Janet, Jones and Thomas Poole and Mary, his wife, on or about the 18th day of March, 1828, exhibited their bill of revivor in the said high court of chancery against this defendant, and the other defendants in the said original and amended bill in the said high court of chancery, thereby stating the said proceedings in the said original cause, and the death of the said complainant, John Aspden, intestate, leaving the said complainants, Janet Jones [and] Mary

Poole his only children and next of kin; and that the said Janet Jones and Mary Poole had obtained letters of administration of the goods, chattels, debts, and credits of the said intestate, to be granted to them out of the prerogative court of the Archbishop of Canterbury; and thereby praying that the said suit and proceedings, which so became abated, as therein mentioned, might stand revived, and be in the same plight and condition as the same were in at the time of the death of the said John Aspden; that the said suit was afterwards duly revived, and the cause being at issue, came on to be heard before his honor, the Chancellor of England, on the 17th day of July, 1830, when his honor was pleased to order and decree that the injunction awarded in the original cause of Aspden against Nixon, pursuant to an order made in the said cause, bearing date the 9th day of August, 1825, to restrain the defendants, Samuel Williams and John Sterling, from selling or transferring £4,000 bank stock, £10,000 three pound per cent. consolidated bank annuites, £6,500 £3 10 0 per cent. reduced annuities, and £6,000 bank four pound per cent. annuities, not assented to, (the said £6,500 and £6,000 in the said injunction, stated by mistake as £12,500 reduced £3 10 0 per cent. annuities,) and £3,500 new £4 per cent. annuities; and the said last named defendants to be restrained from selling or transferring the said £3,000 East India stock and £5,000 South Sea stock; and that the said defendants, Samuel Williams and John Sterling, should be in like manner restrained from receiving any dividends due or to become due on the said bank annuities and stocks respectively, save and except the dividends then already due on the said East India and South Sea stocks; and that the said defendants, the governor and company of the Bank of England, should also be restrained from making, or permitting to be made, any transfer or sale of the bank annuities and stocks, and from paying any dividends thereon; and that the said defendants, the East India company, should be in like manner restrained from making, or permitting to be made, any sale or transfer of the £3,000 East India stock; and that the said defendants, the South Sea company, should be in like manner restrained from making, or permitting to be made, any transfer or sale of the £5,000 stock; and that the said defendants, the East India company and the South Sea company, should be also in like manner restrained from paying any future dividends to accrue due upon the said East India company and South Sea stocks respectively, until the defendants should fully answer the said bill, or the said court should make further order to the contrary, should be dissolved; and that the sum of £228 1 11 cash, in the bank, placed to the credit of the cause of Aspden against Nixon, should be paid to the defendant, Henry Nixon; and for the purpose aforesaid the accountant general of the said court was to draw on the bank according to the form prescribed by the act of parliament, and the general rules and orders of the court in that case made and provided; and that the said complainants' said bill should stand dismissed out of the said court, with costs, to be taxed by the master of the said court in rotation; that the said decree had been since duly signed and enrolled, and that this

defendant did aver that the said suit in the said high court of chancery, so as aforesaid revived and brought to hearing by the said complainants, Jennet Jones, otherwise Janet Jones, and Thomas Poole [and] Mary, his wife, against this defendant and the said other defendants thereto, was for the same matters and to the same effect, and for the like relief and purposes, as against this defendant and the said other defendants thereto, being also defendants to the said complainants' bill of complaint in the said court of exchequer, as the said complainants did, by their said bill of complaint in the said court of exchequer, set forth and seek relief for as against this defendant and the said other defendants to the said bill of complaint in the said court of exchequer; and, therefore, this defendant did plead the said decree of the said high court of chancery, signed and enrolled as aforesaid, in bar to the said complainants' said bill of complaint in the said court of exchequer; and humbly prayed the judgment of the said court whether he should be compelled to make any further or other answer thereto, and prayed to [be] thence dismissed with his reasonable costs in that behalf wrongfully sustained.

And this defendant further saith, that the said cause, being at issue, came on to be heard before the said court of exchequer on the 4th day of July, 1831, when the said court was pleased to order and decree that the said plea, so as aforesaid pleaded by this defendant in bar of the said complainants' bill of complaint in the said court should be allowed, and that the said complainant's said bill of complaint should stand dismissed out of the said court.

And this defendant further saith, that the said decree of the said court of exchequer has been duly signed and enrolled; and this defendant doth aver that the said suit, in the said court of exchequer, so as aforesaid brought to a hearing by the said complainants, Jennet Jones, otherwise Janet Jones, and Thomas Poole [and] Mary, his wife, administrators of the said John Aspden, against this defendant, and the said other defendants thereto, was, for the same matters and to the same effect, and for the like relief and purposes, as against this defendant, the said complainants or petitioners, by their said present bill of complaint or petition in this honorable court, sets forth and seeks relief for. And this defendant further saith, that the said Thomas Poole hath since departed this life, leaving the said Jennet or Janet Jones and Mary Poole to survive him; and this defendant avers, that the said Jennet or Janet and Mary are the same persons by whom the present bill of complaint or petition is exhibited in this honorable court. (And this defendant also avers, that the said Matthias Aspden, at the time of the making of his said last will and testament, and at the time of his death, and during the whole intermediate period between the making of his said last will and testament and his death, was domiciled in London, or elsewhere in England.) [Struck out under the order of the court, to be amended, 28th December, 1835.] And therefore this defendant doth plead the said decree of the said court of exchequer, signed and enrolled as aforesaid, in bar to the said complainants' present bill of complaint or petition in this honorable court, and prays the judgment of this honorable court, whether he shall be compelled to make any

further or other answer thereto. And this defendant prays to be hence dismissed, so far as relates to the present bill of complaint or petition, with his reasonable costs in this behalf wrongfully sustained.

J. R. INGERSOLL, *for def't.*

Henry Nixon, the defendant in the annexed plea named, being duly sworn according to law, says that the said plea is true to the best of his knowledge, judgment, and belief. That he has seen certain papers, purporting to be copies of the bill of complaint, and other proceedings, in the court of exchequer in England, stated in the said plea, which he believes to be true and genuine; and he firmly believes that the proceedings took place as they are set forth in the said plea. He also believes that the said bill and proceedings were for the same matters and to the same effect, and for the like relief and purposes, as the said bill in chancery revived by the complainants, Jennet Jones and Mary Poole; and that the bills filed in the exchequer, and in chancery in England, are for the same matters and to the same effect, and for the like relief and purpose, as the bill and petition in this court by the said Jennet Jones and Mary Poole. The defendant further says, that a certain petition was filed on or about the fifteenth day of June, 1835, in the circuit court of the United States for the eastern district of Pennsylvania, in behalf of Jennet Jones, otherwise Janet Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, whereby it is stated and made to appear that they, the said petitioners, are the daughters and only children of John Aspden, late of Old street, in the city of London; and whereby also it appears that Thomas Poole is deed; and the defendant believes that they, the said Jennet Jones and Mary Poole, are the same persons by whom the bills of complaint and revivor in chancery, and bill in the exchequer, were filed.

H. NIXON.

Sworn and subscribed, this thirteenth day of June, 1836, in open circuit court.

FRA. HOPKINSON, *Cl'k cir. court.*

PACKER vs. NIXON. } No. 1—in equity.

Circuit court of the United States for the eastern district of Pennsylvania, in the third circuit, April session, 1828.

The plea of Henry Nixon, the defendant, to the bill or petition of John A. Brown, administrator of John Aspden, late of Old street, London, deceased.

This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said complainant's bill or petition mentioned to be true, in such manner and form as the same are therein and thereby set forth and alleged, doth plead in bar to the said bill or petition, and for plea saith: That John Aspden, in the said bill or petition of the said complainant alleged to have been the heir-at-law of

Matthias Aspden, the testator, at the time of the death of the said Matthias, and as such the general devisee or legatee in his said last will intended and described, of the whole of the personal estate of the said Matthias, and since deceased, exhibited his original bill of complaint in the high court of chancery of that part of the united kingdom of Great Britain and Ireland called England, which was afterwards amended by an order of the said court, bearing date the 28th day of May, 1827, against this defendant, and against Samuel Williams, John Sterling, the governor and company of the Bank of England, the honorable company of merchants trading to the East Indies, the honorable company of merchants trading to the South seas, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, thereby stating and charging the same matters and things, in substance, as are stated and charged in the bill or petition of the said complainant in this court, save as to the petitioner having become the administrator of the said John Aspden; and thereby praying that an account might be taken by the direction of the said high court in chancery of the personal estate and effects of the said Matthias Aspden, possessed or received by, or come to the hands of, this defendant, or of any person or persons by his order, or for his use, or got in, or possessed, or secured in any way since the decease of the said Matthias Aspden; and that such personal effects and estate might be applied in payment of the said Matthias Aspden's funeral and testamentary expenses and debts, and legacies, in a due course of administration; and that the residue of such personal estate and effects might be ascertained; and that the said complainant, John Aspden, might be declared, by the said high court of chancery, to be entitled, upon the true construction of the will of the said Matthias Aspden, in the said bill of complaint of the said John Aspden set forth, as heir of the said testator, Mathias Aspden, to such residue; and that such residue might be accordingly directed by the said court of chancery to be paid to the said complainant, John Aspden; and that in the mean time this defendant might be restrained, by injunction of the said court, from withdrawing from England any part of the personal estate and effects of the said testator; and the said Samuel Williams and John Sterling from receiving or remitting the said estate and effects, or any part thereof, to this defendant; and particularly from selling or transferring the bank stock, three per cent. consolidated bank annuities, reduced three and a-half per cent. bank annuities, new four per cent. bank annuities, East India stock, and South Sea stock, standing in the testator's name, and mentioned in the said complainant's bill of complaint, and from receiving the dividends thereon respectively, and the moneys, securities, and effects in the hands of the Messrs. Hoares, or any other, the personal estate and effects of the said testator in England; and also to restrain the said governor and company of the Bank of England, and the said honorable East India company, and the said honorable South Sea company, respectively, from making, or permitting to be made, any transfer or sale of such stock or bank annuities, or any part of the same, respect-

ively; and also to restrain the said Messrs. Hoares from paying over all or any part of the moneys, securities, and effects of the said testator in their hands; and also that the governor and company of the Bank of England might be directed to transfer the said respective stocks and annuities there standing in the name of the said testator in their books, and all dividends accrued due thereon respectively, unto the name of the accountant general of the said high court of chancery; and also that proper directions might be given for the sale of the said stocks there respectively standing in the name of the said testator in the respective books of the East India company and the South Sea company; and that the moneys arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid into the said high court of chancery, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the said accountant general, in trust in the said cause; and that the said defendants, Henry Hugh Hoare, Charles Hoare, Henry Merrick Hoare, might be restrained from paying and delivering the moneys, securities, and effects of the testator in their hands to this defendant or the said Samuel Williams and John Sterling; and that the said Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, might be ordered to pay the said moneys of the said testator in their hands into the said court of chancery; and that the said defendants, Samuel Williams and John Sterling, might be restrained by the injunction of the said court from remitting any part of the estate and effects of the said testator, in England, to this defendant; and that some proper person might be appointed by the said high court in chancery to receive and get in all the personal estate and effects of the said testator, and for further relief.

And this defendant further saith, that by an order of the said high court in chancery, bearing date the 9th day of August, 1825, such injunction to restrain the sale and transfer of the said stock and funds, and the receipt of the dividends thereof, as hereinafter is mentioned to have been dissolved, was granted; and that by an order dated the 31st day of July, made in the said cause, in the said high court of chancery, certain moneys, part of the estate of the said Matthias Aspden, were ordered to be paid into court, and the same were accordingly paid into court.

And this defendant further saith, that this defendant, and the other defendants to the said bill of complaint in the high court of chancery, except the said Esther Hartley, who was out of the jurisdiction, put in their respective answers to the said bill of complaint of the said John Aspden; and this defendant, by his said answer, stated, amongst other things, that he believed that Matthias Aspden, the testator in the said bill named, was born in or about the year 1756, at Philadelphia, in North America, being the place of residence of his parents; that he continued to reside, and was afterwards engaged in business as a merchant, with some success, before he was twenty-one years of age; and that upon the breaking out of the war between Great Britain and Ame-

rica, in the year 1776, or some time in that year, being still a minor, he went to England, with what view this defendant was not able from his own knowledge to say, but he believed that he went with an impression that the power of Great Britain must soon prevail in putting down the resistance made in America; and that the testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stocks, and in other securities, and that he made his will and codicil thereto at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the said testator went back to England as his home, or only for the purpose of superintending his property there, and whether the said testator did in fact change his domicil, this defendant did not know, and was unable to answer from his belief or otherwise; but that this defendant believed that the said testator, when in England, considered himself an alien, and as such claimed to have returned the tax from his dividends, while he was absent from England, according to the provisions of the act exempting aliens from the tax if not resident in England.

And this defendant further saith, that the said John Aspden, the complainant in the said cause in the high court of chancery, having departed this life, whereby the said suit in the said court was abated, Jennet, otherwise Jenet Jones, and Thomas Poole and Mary, his wife, which Jennet or Jenet, and Mary were the only children, and next of kin of the said John Aspden, and by whose procurement, and as attorney of whom the complainant or petitioner, John A. Brown, claimed and received letters of administration on the estate of the said John Aspden from the register for the probate of wills and granting letters of administration for the city and county of Philadelphia, on or about the 18th day of March, 1828, exhibited their bill of revivor in the said high court of chancery against this defendant and the other defendants in the said original and amended bill in the said high court of chancery, therein stating the said proceedings in the said original cause, and the death of the said complainant, John Aspden, intestate, leaving the said complainants, Jenet Jones and Mary Poole, his only children and next of kin; and that the said Jennet Jones and Mary Poole had obtained letters of administration of the goods and chattels, debts and credits, of the said intestate to be granted to them out of the prerogative court of the Archbishop of Canterbury; and thereby praying that the said suit and proceedings which so became abated, as therein and heretofore mentioned, might stand revived and be in the same plight and condition as the same were in at the time of the death of the said John Aspden.

And this defendant further saith, that the said suit was afterwards duly revived, and that this cause, being at issue, came on to be heard before his honor, the Chancellor of England, on the 17th day of July 1830, when his honor was pleased to order and decree, that the injunction awarded in the original cause of Aspden against Nixon, pursuant to an order made in the said cause, bearing date the 9th day of August,

1825, to restrain the defendants, Samuel Williams and John Sterling, from selling or transferring the £400 [to] bank stock, £10,000 £3 per cent. consolidated bank annuities, £6,000 £3 10 per cent. reduced annuities, and £6,000 bank £4 per cent. annuities not assented to, (the said £6,500 and £6,000 in the said injunction stated by mistake as £12,500 reduced £3 10 per cent. annuities,) and 3,500 new £4 per cent. annuities; and the said last named defendants to be restrained from selling or transferring the said £3,000 East India stock and £5,000 South Sea stock; and that the said defendants, Samuel Williams and John Sterling, should be in like manner restrained from receiving any dividends due, or to become due, on the said bank annuities and stocks respectively, save and except the dividends then already due on the East India and South Sea stocks; and that the said defendants, the governor and company of the Bank of England, should be also restrained from making, or permitting to be made, any transfer or sale of the said bank annuities or stocks, and from paying any dividends thereon; and that the said defendants, the East India company, should be in like manner restrained from making, or permitting to be made, any sale or transfer of the £3,000 East India stock; and that the said defendants, the South Sea company, should be in like manner restrained from making, or permitting to be made, any transfer or sale of the £5,000 stock; and that the said defendants, the East India company and the South Sea company, should be also, in like manner, restrained from paying any future dividends to accrue due upon the said East India company and South Sea stock respectively, until the defendants should fully answer the said bill, or the said court should make other order to the contrary, should be dissolved, and that the sum of £228 1 11, cash in the bank, placed to the credit of the cause Aspden vs. Nixon, should be paid to the defendant, Henry Nixon; and for the purpose aforesaid the accountant general of the said court was to draw on the bank according to the form prescribed by the act of parli[a]ment, and the general rules and orders of the court in that case made and provided; and that the said complainant's said bill should stand dismissed out of the said court, with costs to be taxed by the master of the said court in rotation.

And this defendant further saith, that the said decree has been duly signed and enrolled, and this defendant doth aver, that the said suit in the said high court of chancery so as aforesaid revived and brought to hearing by the said complainants, Jennet Jones, otherwise Janet Jones, and Thomas Poole and Mary, his wife, administrators of the said John Aspden, against this defendant and the said other defendants thereto, was for the same matters and to the same effect, and for the like relief and purposes, as against this defendant, the said complainant or petitioner, by their said present bill of complaint or petition in this court sets forth and seeks relief for, as administrator of the said John Aspden, upon whose estate this defendant avers administration was claimed by and granted to the said complainant or petitioner, as the attorney in fact of the children and next of kin and administrators of the

said John Aspden in England, and as ancilliary to the administration there, and for no other cause, end, or purpose whatsoever.

And therefore this defendant doth plead the said decree of the said high court in chancery, signed and enrolled as aforesaid, in bar to the said complainants' or petitioners' present bill of complaint or petition in this honorable court, and humbly prays the judgment of the honorable court whether he shall be compelled to make any further or other answer thereto.

And this defendant prays to be hence dismissed, so far as relates to the said petition or bill, with his reasonable costs in this behalf wrongfully sustained.

J. R. INGERSOLL, *for defendant.*

Henry Nixon, the defendant in the annexed plea named, being duly sworn according to law, says, that the said plea is true to the best of his knowledge, judgment, and belief. That he has seen certain papers purporting to be copies of the bill of complaint, and the proceedings in the high court of chancery in England, stated in the said plea, which he believes to be true and genuine, and he firmly believes the proceedings took place as they are set forth in the said plea. He has seen a paper purporting to be a copy of an affidavit, made by Thomas Peters, Hemlock court, Carey street, in the county of Middlesex, verifying the copy of a decretal order of the court of chancery aforesaid, wherein Esther Hartley is named as one of the defendants, and as being out of the jurisdiction of the court; and she is named and referred to in like manner in the paper purporting to be a copy of such decretal order, which the deponent has seen and read; therefore, the defendant believes, she was out of the jurisdiction of the said court. He cannot say whether her answer was actually filed, although as stated in the said plea he believes that the other defendants, except the said Esther Hartley, put in their respective answers. The defendant farther says, that a certain petition was filed on the fifteenth of June, 1835, or about that time, in the circuit court of the United States, for the eastern district of Pennsylvania, in behalf of Jennet Jones, otherwise Janet Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, whereby it is stated and made to appear that they, the said petitioners, are the daughters and only children of John Aspden, late of Old street, in the city of London; and whereby it also appears that Thomas Poole is dead; and the defendant believes that they, the said Jenet Jones and Mary Poole, are the same persons by whom the bills of complaint and revivor in chancery, and bill in the exchequer, were filed.

H. NIXON.

Sworn and subscribed, this thirteenth of June, 1836, in open circuit court.

FRA. HOPKINSON, *Clerk circuit court.*

CIRCUIT COURT OF THE UNITED STATES,

For the eastern district of Pennsylvania, in the third circuit.

PACKER vs. NIXON. } April session, 1828, No 1, in equity.

The plea of Henry Nixon, the defendant, to the bill or petition of John A. Brown, administrator of John Aspden, late of Old street, London, deceased.

This defendant, by protestation, not confessing or acknowledging all or any of the matters or things in the said complainant's bill or petition mentioned to be true, in such manner and form as the same are therein and thereby set forth and alleged, doth plead in bar to the said bill or petition, and for plea saith:

That Jennet, otherwise Janet Jones, of Old street, in the parish of St. Luke, in the county of Middlesex, widow, and Thomas Poole, of Hoxton, in the same county, yeoman, and Mary, his wife, administrators of John Aspden, of Old street, London, deceased, exhibited their original bill of complaint in the court of exchequer, at Westminster, in that part of the united kingdom of Great Britain and Ireland called England, against this defendant, and against the governor and company of the Bank of England, the East India company, and the South Sea company, and against Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, therein and thereby stating and charging, in substance, the same matters and things as are stated and charged in the bill or petition of the said complainant in this court, save as to the petitioners having become the administrators of John Aspden, of Old street, London, in the said bill or petition named, and thereby praying that the defendant, Henry Nixon, might set forth an account of the personal estate and effects of the said testator, possessed by him, or by any person or persons by his order, or for his use, and how and in what manner the same had been disposed of; and that an account might be taken by, and under the direction of, the said court of exchequer, of the personal estate and effects of the said testator, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or of any other person or persons by his order or for his use; and that such personal estate and effects might be applied, so far as the same had not already been done, in payment of the funeral and testamentary expenses, debts, and legacies of the said testator, Matthias Aspden, in due course of administration; and that the residue of such personal estate and efiects might be ascertained; and that John Aspden, (who, in the said bill or petition of the said complainant in this honorable court, is alleged to have been the heir-at-law of Matthias Aspden, the testator, and as such the general devisee in his said last will intended and described, of the whole of the personal estate of the said Matthias,) and who is since deceased, and upon whose estate the said complainant or petitioner in this honorable court claimed and received letters of administration from the register for the probate of wills, and granting of letters of administration in and for the county of Philadelphia, as the attorney in fact of the children and next

of kin and administrator of the said John Aspden, in England, might be declared by the said court of exchequer to have been entitled, under the will of the said testator, as the heir-at-law of the said testator, according to the law of England, to such residue; and that such residue might be directed by the said court of exchequer to be paid and transferred to Jennet, otherwise Janet Jones, and Thomas Poole and Mary, his wife, the complainants in the said bill in the said court, as the personal representatives of the said John Aspden, deceased; and that in the mean time the said defendant, Henry Nixon, might be restrained by the injunction of the said court from collecting or receiving any part of the personal estate and effects of the said testator in England, and particularly from selling or transferring the sums of £4,000 bank stock; £10,000 three per cent. consolidated bank annuities; £6,500 reduced three and a half per cent. bank annuities; and £3,500 new four per cent. annuities, standing in the books of the governor and company of the bank of England in the name of the said testator; and from selling, transferring, or receiving the sum of £6,000 four per cent. annuities, (not assented to take three pounds ten shillings per cent. per annum in lieu thereof, in the manner and at the times required by the act of the fifth of the year of the reign of his late Majesty, the King of the united kingdom of Great Britain and Ireland,) also standing in the books of the said governor and company of the bank of England in the name of the said testator; and from selling or transferring the sum of £3,000 stock, standing in the books of the said East India company in the name of the said testator; and the sum of £5,000 stock, standing in the books of the South Sea company in the name of the said testator, and from receiving the dividends or interests upon any of the several stocks or funds aforesaid; and that the said defendants, the governor and company of the Bank of England, and the said defendants, the East India company, and the said defendants, the South Sea company, might be respectively restrained from permitting any transfers of such respective sums to be made; and that the said defendants, the governor and company of the Bank of England, might be directed to transfer the said respective stock then standing in the name of the said testator in the said books, and all dividends accrued thereon respectively, unto the name of the accountant general of the said court of exchequer, in trust in the said cause, and to pay into the bank, to the credit of the accountant general in the said cause, the sum of £6,000, payable in respect of the same sum of four per cent. annuities, then standing in the name of the said testator, not assented to as aforesaid; and that proper directions might be given for the sale of the said stock, respectively, standing in the name of the said testator in the respective books of the East India company and of the South Sea company; and that the money arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the accountant general, in trust, in the said cause; and that some proper

person might be appointed by the said court to receive and get in all other the outstanding personal estate and effects of the said testator, and for further relief.

And this defendant further saith, that this defendant put in his plea in bar to the said bill of complaint; and in his said plea, among other things, stated, that John Aspden, in the said bill of complaint alleged to have been the heir-at-law, according to the law of England, of Mathias Aspden, the testator in the said bill of complaint named, at the time of the death of such testator, and to be since deceased, on or about the 30th day of July, 1825, exhibited his original bill of complaint in the high court of chancery of England, which was afterwards amended by order of the said court, bearing date the 28th day of May, 1827, against this defendant and the other defendants to the said bill of complaint of the said complainants in the said court of exchequer; and also against Samuel Williams and John Sterling, therein named as the attorneys of this defendant, to collect and receive the property and effects of the said testator in England; and Esther Hartley, therein alleged to claim to be entitled to a share of the property of the said testator as one of his next of kin, and to be out of the jurisdiction of the said court of chancery; thereby stating and charging the same matters and things as were stated and charged in the said bill of complaint of the said complainants in the said court of exchequer, save as to the death of the said John Aspden, and as to the said complainants having become his legal personal representatives; and thereby praying that an account might be taken by the direction of the said high court of chancery of the personal estate and effects of the said Mathias Aspden, possessed by, or received by, or come to the hands of, this defendant, or of any other person or persons by his order, or for his use, or got in or possessed, or received in any way, since the decease of the said Mathias Aspden; and that such personal estate and effects might be applied in payment of the said Mathias Aspden's funeral and testamentary expenses, and debts, and legacies, in a due course of administration; and that the residue of such personal estate and effects might be ascertained; and that the said complainant, John Aspden, might be directed by the said court of chancery to be entitled, upon the true construction of the will of the said Mathias Aspden, in the said bill of complaint of the said John Aspden set forth as heir of the said testator, Mathias Aspden, to such residue, and that such residue might be accordingly directed by the said court of chancery to be paid to the said complainant, John Aspden; and that, in the mean time, this defendant, and the defendants Samuel Williams and John Sterling, might be restrained by the injunction of the said court from collecting and receiving any part of the personal estate and effects of the said testator, Mathias Aspden, in England, and particularly from selling and transferring the sums of £4,000 bank stock, £10,000 three pounds per cent. consolidated bank annuities, £6,500 reduced 3½ per cent. bank annuities, four pounds per cent. annuities, not assented to take £3 10 0 per cent. per annum in lieu thereof, in the manner and at the times re-

quired by an act of parliament of the fifth year of his then majesty King George the 4th; and £3,500 new four per cent. bank annuities, then standing in the books of the said governor and company of the Bank of England in the name of the said testator, Mathias Aspden; and the sum of £3,500 stock standing in the books of the said East India company in the name of the said testator; and the sum of £5,000 stock standing in the books of the South Sea company in the name of the said testator; and from receiving the dividends or interest thereon respectively, and the moneys, securities, and effects, then in the hands of Messrs. Hoare as bankers of the said testator; and that the governor and company of the Bank of England, and the East India company, and the South Sea company, all of them defendants to the said bill of complaint in the said high court of chancery, might be respectively restrained from permitting any transfer of such respective sums to be made; and also that the governor and company of the Bank of England might be directed to transfer the said respective stock and annuities, then standing in the name of the said testator in their books, and all dividends accrued due thereon, respectively, unto the name of the accountant general of the said high court of chancery; and also that proper directions might be given for the sale of the said stock then respectively standing in the name of the said testator in the respective books of the East India company and the South Sea company; and that the moneys arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid into the said high court of chancery, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the said accountant general of such last mentioned court, in trust, in the said cause; and that the said defendants, Henry Hugh Hoare, Charles Hoare, Henry Merrick Hoare, might be restrained from paying and delivering the moneys, securities, and effects of the said testator in their hands to this defendant, or the said Samuel Williams and John Sterling; and that the said Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, might be ordered to pay the said money of the said testator in their hands into the said court of chancery; and that the said defendants, Samuel Williams and John Sterling, might be restrained, by the injunction of the said court, from remitting any part of the estate or effects of the said testator in England to this defendant; and that some proper person might be appointed by the said high court of chancery to receive and get in all the personal estate and effects of the said testator, and for further relief.

That, by an order of the said high court of chancery, bearing date the 9th day of August, 1825, such injunction to restrain the sale and transfer of the said funds and stocks, and the receipt of the dividends thereof, as in the said plea was afterwards mentioned to have been dissolved, was granted; and that, by an order dated the 31st day of July, 1826, made in the said cause in the said high court of chancery, certain moneys, part of the estate of the said Mathias Aspden, were ordered to be paid into court, and the same were accordingly paid into court.

That this defendant, and the other defendants in the said bill of complaint in the high court of chancery, except the said Esther Hartley, who was out of the jurisdiction, put in their respective answers to the said bill of complaint of the said John; and this defendant, by his said answer, stated, amongst other things, that he believed that Mathias Aspden, the testator in the said bill named, was born on or about the year 1756, at Philadelphia, in North America, being the place of residence of his parents; that he continued to reside, and was afterwards engaged in business at Philadelphia, as a merchant, with some success, before he was 21 years of age; and that, upon the breaking out of the war between Great Britain and America, in the year 1776, or some time in that year, being still a minor, he went to England, with what view this defendant was not able from his own knowledge to say, but he believed he went with an impression that the power of Great Britain must soon prevail in putting down the resistance made in America; and that the said testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stocks, and other securities; and that he made his will, and the codicils thereto, at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the said testator went back to England as his home, or only for the purpose of superintending his property there; whether the said testator did in fact change his domicil, this defendant did not know, and was unable to answer from his belief or otherwise; but that this defendant believed that the said testator, when in England, considered himself an alien, and as such claimed to have returned the tax from his dividends while he was absent from England, according to the provisions of the act exempting aliens from tax if not resident in England. That the said John Aspden, the complainant in the said cause in the said high court of chancery, having departed this life, whereby the said suit in said court became abated, the said complainants, Jennet, otherwise Janet Jones, and Thomas Poole and Mary, his wife, on or about the 18th day of March, 1828, exhibited their bill of revivor in the said high court of chancery, against this defendant and the other defendants in the said original and amended bill in the said high court of chancery, thereby stating the said proceedings in the said original cause, and the death of the said complainant, John Aspden, intestate, leaving the said complainants, Janet Jones [and] Mary Poole his only children and next of kin; and that the said Janet Jones and Mary Poole had obtained letters of administration of the goods, chattels, debts, and credits of the said intestate, to be granted to them out of the prerogative court of the Archbishop of Canterbury, and thereby praying that the said suit and proceedings which so became abated as therein mentioned might stand revived, and be in the same plight and condition as the same were in at the time of the death of the said John Aspden; that the said suit was afterwards duly revived; and the cause being at issue came on to be heard before his honor the Chancellor of England, on the 17th day of July, 1830,

when his honor was pleased to order and decree that the injunction awarded in the original cause of Aspden against Nixon, pursuant to an order made in the said cause, bearing date the 9th day of August, 1825, to restrain the defendants, Samuel Williams and John Sterling, from selling or transferring £4,000 bank stock, £10,000 three pound per cent. consolidated bank annuities, £6,500 £3 10 per cent. reduced annuities, and £6,000 bank four pound per cent. annuities not assented to, (the said £6,500 and £6,000 in the said injuction stated by mistake as £12,500 reduced £3 10 per cent. annuities,) and £3,500 new £4 per cent. annuities; and the said last named defendants to be restrained from selling or transferring the said £3,000 East India stock and £5,000 South Sea stock; and that the said defendants, Samuel Williams and John Sterling, should be in like manner restrained from receiving any dividends due, or to become due, on the said bank annuities and stocks respectively, save and except the dividends then already due on the said East India and South Sea stocks; and that the said defendants, the governor and company of the Bank of England, should also be restrained from making, or permitting to be made, any transfer or sale of the said bank annuities and stocks, and from paying any dividends thereon; and that the said defendants, the East India company, should be in like manner restrained from making, or permitting to be made, any sale or transfer of the £3,000 East India stock; and that the said defendants, the South Sea company, should be in like manner restrained from making, or permitting to be made, any transfer or sale of the £5,000 stock; and that the said defendants, the East India company and the South Sea company, should be also, in like manner, restrained from paying any future dividends to accrue due upon the said East India company and South Sea stock respectively, until the defendants should fully answer the said bill, or the said court should make other order to the contrary, should be dissolved, and that the sum of £228 1 11 cash in the bank, placed to the credit of the cause of Aspden against Nixon, should be paid to the defendant Henry Nixon; and, for the purpose aforesaid, the accountant general of the said court was to draw on the bank, according to the form prescribed by the act of parliament, and the general rules and orders of the court in that case made and provided; and that the said complainants' said bill should stand dismissed out of the said court, with costs, to be taxed by the master of the said court in rotation; that the said decree had been since duly signed and enrolled; and that this defendant did aver that the said suit, in the said high court of chancery so as aforesaid revived and brought to hearing by the said complainants, Jennet Jones, otherwise Janet Jones, and Thomas Poole and Mary, his wife, against this defendant and the said other defendants thereto, was for the same matters, and to the same effect, and for the like relief and purposes, as against this defendant and the said other defendants thereto, being also defendants to the said complainants' bill of complaint in the said court of exchequer, as the said complainants did by their said bill of complaint in the said court of exchequer set forth, and seek

relief for, as against this defendant and the said other defendants to the said bill of complaint in the said court of exchequer; and therefore this defendant did plead the said decree of the said high court of chancery, signed and enrolled as aforesaid, in bar to the said complainant's said bill of complaint in the said court of exchequer, and humbly prayed the judgment of the said court whether he should be compelled to make any further or other answer thereto, and prayed to be thence dismissed, with his reasonable costs in that behalf wrongfully sustained.

And this defendant further saith, that the said cause, being at issue, came on to be heard before the said court of exchequer on the 4th day of July, 1831, when the said court was pleased to order and decree that the said plea, so as aforesaid pleaded by this defendant in bar of the said complainants' bill of complaint in the said court, should be allowed, and that the said complainants' said bill of complaint should stand dismissed out of the said court.

And this defendant further saith, that the said decree of the said court of exchequer has been duly signed and enrolled; and this defendant doth aver that the said suit in the said court of exchequer, so as aforesaid brought to a hearing by the said complainants, Jennet Jones, otherwise Janet Jones, and Thomas Poole and Mary, his wife, administrators of the said John Aspden, against this defendant and the said other defendants thereto, was for the same matters, and to the same effect, and for the like relief and purposes, as against this defendant, the said complainants or petitioners, by their said present bill of complaint or petition in this honorable court, sets forth, and seeks relief for, as administrator of the said John Aspden, upon whose estate this defendant avers administration was claimed and granted to the said complainant or petitioner as the attorney in fact of the children, and next of kin and administrators of the said John Aspden, in England, and as ancilliary to the administration there, and for no other end or purpose whatsoever.

(And this defendant also avers, that the said Matthias Aspden, at the time of the making his said last will and testament, and at the time of his death, and during the whole intermediate period between the making of his said last will and testament and his death, was domiciled in London, or elsewhere in England.) [Struck out under the order of the court to amend, Dec. 28, 1835.]

And therefore this defendant doth plead the said decree of the said court of exchequer, signed and enrolled as aforesaid, in bar to the said complainant's present bill of complaint or petition in this honorable court, and prays the judgment of this honorable court whether he shall be compelled to make any further or other answer thereto; and this defendant prays to be hence dismissed, so far as relates to the said bill of complaint or petition, with his reasonable costs in this behalf wrongfully sustained.

J. R. INGERSOLL, *for def't.*

Henry Nixon, the defendant in the annexed plea named, being duly sworn according to law, says: That the said plea is true to the best of his knowledge, judgment, and belief; that he has seen certain papers purporting to be copies of the bill of complaint and other proceedings in the court of exchequer, in England, stated in the said plea, which he believes to be true and genuine, and he firmly believes that the proceedings took place as they are set forth in the said plea; he also believes that the said bill and proceedings were for the same matters and to the same effect, and for the like relief and purposes, as the said bill in chancery, revived by the complainants, Jennet Jones and Mary Poole; and that the bills filed in the exchequer and in chancery, in England, are for the same matters and to the same effect, and for the like relief and purposes, as the bill and petition in this court by the said Jennet Jones and Mary Poole. The defendant further says, that a certain petition was filed on or about the fifteenth day of June, 1835, in the circuit court of the United States, for the eastern district of Pennsylvania, in behalf of Jennet Jones, otherwise Janet Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, whereby it is stated and made to appear that they, the said petitioners, are the daughters and only children of John Aspden, late of Old street, in the city of London; and whereby, also, it appears that Thomas Poole is dead; and the defendant believes that they, the said Jennet Jones and Mary Poole, are the same persons by whom the bills of complaint and revivor in chancery and bill in the exchequer were filed.

H. NIXON.

Sworn and subscribed, this thirteenth day of June, 1836, in open circuit court. FRA. HOPKINSON,
Clerk circuit court.

Motion to amend the answer to the amended bill.

Afterwards, to wit, on the twenty-eighth day of December, A. D. 1835, Mr. Ingersoll, for the respondent, moves for leave to amend the answer to the amended bill, conformably to the answer of the original bill as to domicil and residence of testator, and leave is granted. [Vide answer.]

Reference to the master.

Afterwards, to wit, on the same day, it is ordered, that it be referred to Mr. Wharton, the master, to inquire whether both petitions of Mrs. Poole and Mrs. Jones, and of John A. Brown, administrator of John Aspden, of London, are for the same matter, in the same right, and for the benefit of the same persons; also in what capacity and in what right John A. Brown administered on the estate of John Aspden, of London.

Amended answer to the amended bill.

Afterwards, to wit, on the thirty-first day of December, in the year last aforesaid, the said respondent, by his said solicitor, presents and files his amended answer to the amended bill; which amended answer is in the words and of the tenor following, to wit:

To the honorable the judges of the circuit court of the United States, third circuit, in and for the district of Pennsylvania.

The answer of Henry Nixon to the bill of complaint, filed as an amended bill of Samuel Packer, complainant.

This defendant, now and at all times hereafter, saving to himself all and all manner of benefit of exception or otherwise that can or may be had or taken to the many errors, uncertainties, and imperfections in the said bill contained, for answer thereto, or to so much thereof as this defendant is advised it is material or necessary for him to make answer unto, answering, saith: That he has heard and believes that Matthias Aspden, the testator named in the said bill, was formerly a merchant of the city of Philadelphia, and that, at some time or other not known to this defendant, he left that place and went to England. This defendant does not deny that the time may have been that stated in the bill, and he has no knowledge, and neither admits or denies anything with regard to the fact alleged in the bill, that the said Matthias Aspden resided in England until the time of his death, or anything in relation thereto. The defendant admits that large investments were made by the said Matthias Aspden as stated in the said bill; he also admits that Matthias Aspden died on or about the day mentioned in the bill, but whether resident in the place mentioned by the complainant he does not know. The defendant believes, and therefore admits, that, at the time of making the will mentioned in the complainant's bill, the said Matthias Aspden was possessed of very considerable property in the English and American funds, and of other personal estate and effects to a considerable amount. The defendant also admits that the said Matthias Aspden (whether then resident and domiciled in England the defendant does not know, and submits, if it be important, that proof be made thereof in due and proper manner and form) made and executed his last will and testament in writing, with three codicils thereto, bearing date the sixth day of December, one thousand seven hundred and ninety-one; and that the said will and codicils are correctly set forth in the complainant's said bill; and that George Roberts and Abraham Liddon, therein named as executors, died in the lifetime of the testator; and that Matthias Aspden departed this life on or about the ninth day of August, one thousand eight hundred and twenty-four, without having revoked or altered his said will, and without issue, he never having been married; and that this defendant was, at the time of the death of the said testator, the president of the Bank of North America, which bank (the defendant entertains no doubt) the testator meant and intended by the description of the old bank; and the defendant caused the said will to be duly proved according to the laws of Pennsylvania; and, having received letters testamentary thereon, took on himself the burden of the execution thereof, and hath possessed himself, as far as he was able, of all the goods and chattels and other personal estate of the said testator, to a very large amount, more than sufficient to pay the funeral expenses, debts, and legacies of the said tes-

tator. This defendant has no knowledge as to the domicil or residence of the said Matthias Aspden from the time of the date of the said will until the period of his death; nor has the defendant any knowledge whether he left the said Samuel Packer his heir-at-law, or as to the chain of consanguinity set forth in the said bill, purporting to connect the said Samuel Packer, as heir-at-law, with the said Matthias Aspden, the testator; or as to the title of the said complainant, under the said will, to the residue of the personal estate and effects of the said testator, after payment of his funeral expenses, debts, and legacies; all which matters, if material to the complainant, this defendant prays of the court that he may be required to prove.

This defendant further states that he is willing and ready, and always has been so since he has received and collected the effects belonging to the estate of the said Matthias Aspden, to pay and distribute the same according to law and justice, and as in duty he may be bound to do, and to the person or persons duly entitled to receive the same. But the funds in the hands of the defendant are claimed, not only by the said Samuel Packer, the complainant, but by sundry other persons, each denying the right of the others, or asserting exclusively their own. After sundry proceedings before this honorable court, and before the Supreme Court of the United States, all of which appear upon the records of the said courts, petitions were filed in this honorable court, by different persons, which have been received and entertained, and as the defendant is informed and believes will be acted on by this honorable court. On the fifteenth day of June last past, petitions were filed in behalf of John Aspden, of Lancashire, in England; of Janet Jones and Mary Poole, alleging themselves to be the daughters and only children of John Aspden, late of Old street, in the city of London; of John A. Brown, administrator of the goods and chattels, rights and credits, which were of John Aspden, late of Old street, London; of Mary Harrison, by John Brown Francis, in right of his wife Elizabeth, as testamentary guardian of the said Mary Harrison; of George Harrison; of Thomas H. White, Henry Reed, and Elizabeth White Reed, formerly Elizabeth White Bronson, in right of his said wife; Ann Emily Bronson, Hetta Atwater Bronson, and William White Bronson, minor children of Mary Bronson, deceased, by Thomas H. White, their lawful guardians; and Thomas H. White, executor of the last will and testament of Elizabeth MacPherson, deceased; of James McMurtrie and Rebecca, his wife, in right of his said wife; of Mary Ann Church; of Joseph Worrell and Anne, his wife, in the right of the said Anne; of Mahlon Doan and Rebecca, his wife, late Rebecca Hartley, in right of said Rebecca; of Samuel Champion and Sarah, his wife, late Sarah Zane, in right of said Sarah; of Rebecca Burrough, Asher Hartley, Bathsheba Brick, Samuel Brick and Elizabeth, his wife, John Brick, Thomas Hartley, Edmund Brown, Mary Brown, Elisha Brown, Benjamin Brown, James Brown, Chalkley Brown, and Israel Brown; of John Zane and Isaac Zane.

And on the sixth day of the month of July petitions were filed in

behalf of Edward Hartley and Thomas Adams, in right of his wife Barsheba, formerly Barsheba Hartley, and of Rebecca Bolton, respectively claiming the fund in the hands of the defendant. Some of the said petitioners aver, that the said Matthias Aspden was domiciled in the city of London or elsewhere in England, and like averments are made by the complainant in his amended bill; while others of the said petitioners aver that he was domiciled in the State of Pennsylvania. The defendant submits to your honors the materiality and the truth of these several averments, and prays that if they or any of them are material, or should appear at any time to be so, due and legal proof may be made in relation thereto.

And this defendant further says, that he can neither admit nor deny that the said testator was a citizen of Pennsylvania, as alleged in the original bill. That from information he believes that the said Matthias Aspden, the testator, was born in or about the year 1756, at Philadelphia, that being the place of the residence of his parents; that he continued to reside there, and afterwards was engaged in business at Philadelphia, as a merchant, with some success, before he was twenty-one years of age. Upon the breaking out of the war between Great Britain and America, in the year 1776, or some time in that year, being still a minor, he went to England, with what view this defendant, from his own knowledge, is not able to say, but he believes he went with an impression that the power of Great Britain must prevail soon in putting down the resistance made in America. That the said testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stock, and in other securities. That he made his will, and the codicils thereto, at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the testator went back to England as his home, or only for the purpose of superintending his property, and whether the testator did in fact change his domicil, this defendant, save and except as appears by the facts alluded to, doth not know and is unable to say. But this defendant believes that the said testator, when in England, considered himself entitled to claim a return of the tax taken from his dividends while he was absent from England, according to what the defendant understands were the provisions of the law exempting aliens from the tax of not resident in England. On the other hand, the defendant has met, among the papers which have fallen into his hands, a document purporting to have been prepared by the said testator, in which he styles London his home. (Other papers and documents are in the possession of the defendant, which purport to have been written by the testator, which he hereby freely submits to the control of the court, and offers to exhibit to any of the parties in the cause or their counsel.) A copy of this document is hereto annexed and referred to as a part of this answer. And the defendant believes that the said Matthias Aspden died in King street, Holborn, London.

The defendant farther states, that certain proceedings were instituted

before the court of chancery in England, and before the court of exchequer in the same country, to which it may be material for him here to refer, being unable and altogether unwilling to judge of the effect thereof upon the claims of any party to this cause. He respectfully, however, annexes the papers which have been communicated to him as exhibits of the said proceedings, and refers to them as a part of this answer.

This defendant, under the circumstances aforesaid, is in danger of being greatly harassed on account of the said conflicting and irreconcileable claims, and cannot safely pay the fund aforesaid to any of the said complainants, without the aid and protection of this honorable court; and he prays that the said complainant and petitioners may be decreed to adjust their several claims and demands between themselves, or that this honorable court will adjudge and decree between them, as to justice and equity may appear right; this defendant, hereby offering to account for and pay the said fund to such of them, the said complainant and petitioners, as the same shall appear of right to belong and be payable to; or to such other persons, if there be any other better entitled than they, as this honorable court shall designate and approve, on being indemnified by this honorable court in so doing. The defendant prays leave to suggest, with regard to certain petitioners above referred to, that transactions have occurred, which may render a special defence applicable to their case, which will not apply to the case of the complainant or that of the other petitioners. He therefore asks leave, with regard to the petitions of Janet Jones and Mary Poole, alleging themselves to be the daughters and only children of John Aspden, late of Old street, in the city of London, and of John A. Brown, administrator of the goods and chattles, rights and credits, which were of the said John Aspden, late of Old street, London, to file, at the instance and request of some of the counsel, special pleas along with this his amended answer.

This defendant farther states that proceedings are now depending before the orphan's court, for the city and county of Philadelphia, for the settlement and adjustment of his accounts as executor of Matthias Aspden aforesaid, the same being a court of final jurisdiction, and having full cognizance of the matter. He respectfully asks that this honorable court will, in the consideration of the complainant's bill and the petitions aforesaid, have such regard to the said proceedings as to make no decree that can prejudice the defendant in relation thereto, but that in his rights and obligations towards another and a competent tribunal he may be preserved and protected.

The defendant annexes to his answer a true and correct statement of the fund under his control belonging to the said estate, exhibiting the manner in which it is now invested.

This defendant is, and at all times has been, ready and willing to pay the said fund to whomsoever shall be entitled thereto; but by reason that all the persons above named as claimants thereof persist in the several adverse claims before mentioned, and are proceeding in this

honorable court against the defendant for the recovery thereof, the defendant is advised that he cannot, with safety, pay the same to any of the said persons, but that they ought to interplead together, touching their right to the same, in order that the defendant may know to whom the same ought to be paid. This defendant, therefore, prays your honors that the said persons may be decreed (if it so seem just and reasonable to this honorable court,) to interplead together; and that it may be ascertained, in such manner as the court shall direct, to which of them the said fund belongs or ought to be paid.

And this defendant denies all and all manner of unlawful combination and confederacy; without this, that there is any other matter, cause, or thing, in the said bill of the complainant, or in the said petitions contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true, to the knowledge or belief of the defendant. All which matters and things the defendant is ready and willing to aver, maintain, and prove as this honorable court shall provide for; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

J. R. INGERSOLL,
For the defendant.

Henry Nixon, the defendant above named, being duly sworn according to law, deposeth and saith, that the facts and statements contained in the foregoing answer, so far as they are derived from his own knowledge, are true; and so far as they are derived from the information of others, they are true to the best of his knowledge, judgment, and belief.

The said Henry Nixon further swears that he has exhibited this answer without any fraud or collusion between him and the complainant or the said petitioners, or any of them, or either of them; and that this answer hath not been prepared or exhibited at the request of the said complainant or petitioners, or of any or either of them; and that he is not indemnified by the said complainant or petitioners, or by any or either of them; and that he has exhibited his answer and prayer merely of his own free will, and to avoid being sued or molested touching the matters contained in his said answer.

H. NIXON.

Sworn and subscribed this thirty-first day of December, 1835, before me.

A. PETTIT, *Alderman*.

Report of the master on the order of reference of December 28, 1835.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

In pursuance of the order of reference to me, made on the twenty-eighth day of December, 1835, by which I was directed to inquire

"whether both petitions (of Mrs. Poole and of Mrs. Jones, and of John A. Brown, administrator, &c.,) are for the same matter, in the same right, and for the benefit of the same persons; also in what capacity and in what right John A. Brown administered on the estate of John Aspden, of London," and in compliance with the order made on the thirty-first day of December, 1835, that I should report on this day, I now respectfully report:

That I was attended on the twenty-ninth and thirtieth days of December, 1835, by James S. Smith, esquire, solicitor for Mrs. Poole and Mrs. Jones, claiming to be the only children and co-heiresses of John Aspden, late of Old street, London; by Henry J. Williams, esquire, solicitor for John A. Brown, administrator of the goods, &c., of John Aspden, late of Old street, London; by James M. Brown, esquire, solicitor for John Aspden, of Lancashire, in England; by William Rawle, jr., esquire, solicitor for Samuel Packer, the complainant; by Benjamin Tilghman, esquire, solicitor for Mr. McMurtrie and others, claiming to be next of kin; and by John L. Newbold, esquire, solicitor for others claiming to be next of kin. And I was furnished with the original administration bond, given by John A. Brown, on which is endorsed the affidavit made by him on taking out letters of administration, and also with the inventory filed by him. And, having heard the suggestions of the counsel, and considered the said documents and the petitions of the aforesaid persons, I do find:

1. That the petition of Mrs. Janet Jones and Mrs. Mary Poole, and the petition of John A. Brown, administrator, &c., are for the same matter, being (both) for the fund in the hands of the defendant, the executor of the will of Matthias Aspden, deceased, which is claimed by both under the will of the said Matthias Aspden, deceased.

2. That the said petitions are in the same right, both being in right of John Aspden, formerly of Old street, London, deceased, who is alleged, in both petitions, to have been "the heir-at-law of the said Matthias Aspden," and as such "the general devisee" in his said will mentioned and intended.

3. In reference to the next point of inquiry I submit that the solution of the question, whether these petitions are for the benefit of the same persons must depend upon the view which the court shall take of the rights of the said parties as between themselves. The petition of Mrs. Jones and Mrs. Poole claims the fund for their own benefit as the only children and co-heiresses of the said John Aspden, deceased; the petition of John A. Brown claims the same fund for himself as the administrator or legal representative of the estate of the said John Aspden. If the court shall be of opinion that persons claiming to be children of an alleged legatee are entitled to institute and maintain proceedings in equity for the recovery of the legacy for their own benefit, independently of the administrator of such legatee, and without regard to the creditors, if any, of such legatee; and that an administrator may, at the same time, maintain an action for the same fund, for the payment of debts, and for the other purposes of his administration,

honorable court against the defendant for the recovery thereof, the defendant is advised that he cannot, with safety, pay the same to any of the said persons, but that they ought to interplead together, touching their right to the same, in order that the defendant may know to whom the same ought to be paid. This defendant, therefore, prays your honors that the said persons may be decreed (if it so seem just and reasonable to this honorable court,) to interplead together; and that it may be ascertained, in such manner as the court shall direct, to which of them the said fund belongs or ought to be paid.

And this defendant denies all and all manner of unlawful combination and confederacy; without this, that there is any other matter, cause, or thing, in the said bill of the complainant, or in the said petitions contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed, traversed, and avoided or denied, is true, to the knowledge or belief of the defendant. All which matters and things the defendant is ready and willing to aver, maintain, and prove as this honorable court shall provide for; and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

J. R. INGERSOLL,
For the defendant.

Henry Nixon, the defendant above named, being duly sworn according to law, deposeth and saith, that the facts and statements contained in the foregoing answer, so far as they are derived from his own knowledge, are true; and so far as they are derived from the information of others, they are true to the best of his knowledge, judgment, and belief.

The said Henry Nixon further swears that he has exhibited this answer without any fraud or collusion between him and the complainant or the said petitioners, or any of them, or either of them; and that this answer hath not been prepared or exhibited at the request of the said complainant or petitioners, or of any or either of them; and that he is not indemnified by the said complainant or petitioners, or by any or either of them; and that he has exhibited his answer and prayer merely of his own free will, and to avoid being sued or molested touching the matters contained in his said answer.

H. NIXON.

Sworn and subscribed this thirty-first day of December, 1835, before me.

A. PETTIT, *Alderman.*

Report of the master on the order of reference of December 28, 1835.

To the honorable the judges of the circuit court of the United States, for the eastern district of Pennsylvania.

In pursuance of the order of reference to me, made on the twenty-eighth day of December, 1835, by which I was directed to inquire

"whether both petitions (of Mrs. Poole and of Mrs. Jones, and of John A. Brown, administrator, &c.,) are for the same matter, in the same right, and for the benefit of the same persons; also in what capacity and in what right John A. Brown administered on the estate of John Aspden, of London," and in compliance with the order made on the thirty-first day of December, 1835, that I should report on this day, I now respectfully report:

That I was attended on the twenty-ninth and thirtieth days of December, 1835, by James S. Smith, esquire, solicitor for Mrs. Poole and Mrs. Jones, claiming to be the only children and co-heiresses of John Aspden, late of Old street, London; by Henry J. Williams, esquire, solicitor for John A. Brown, administrator of the goods, &c., of John Aspden, late of Old street, London; by James M. Brown, esquire, solicitor for John Aspden, of Lancashire, in England; by William Rawle, jr., esquire, solicitor for Samuel Packer, the complainant; by Benjamin Tilghman, esquire, solicitor for Mr. McMurtrie and others, claiming to be next of kin; and by John L. Newbold, esquire, solicitor for others claiming to be next of kin. And I was furnished with the original administration bond, given by John A. Brown, on which is endorsed the affidavit made by him on taking out letters of administration, and also with the inventory filed by him. And, having heard the suggestions of the counsel, and considered the said documents and the petitions of the aforesaid persons, I do find:

1. That the petition of Mrs. Janet Jones and Mrs. Mary Poole, and the petition of John A. Brown, administrator, &c., are for the same matter, being (both) for the fund in the hands of the defendant, the executor of the will of Matthias Aspden, deceased, which is claimed by both under the will of the said Matthias Aspden, deceased.

2. That the said petitions are in the same right, both being in right of John Aspden, formerly of Old street, London, deceased, who is alleged, in both petitions, to have been "the heir-at-law of the said Matthias Aspden," and as such "the general devisee" in his said will mentioned and intended.

3. In reference to the next point of inquiry I submit that the solution of the question, whether these petitions are for the benefit of the same persons must depend upon the view which the court shall take of the rights of the said parties as between themselves. The petition of Mrs. Jones and Mrs. Poole claims the fund for their own benefit as the only children and co-heiresses of the said John Aspden, deceased; the petition of John A. Brown claims the same fund for himself as the administrator or legal representative of the estate of the said John Aspden. If the court shall be of opinion that persons claiming to be children of an alleged legatee are entitled to institute and maintain proceedings in equity for the recovery of the legacy for their own benefit, independently of the administrator of such legatee, and without regard to the creditors, if any, of such legatee; and that an administrator may, at the same time, maintain an action for the same fund, for the payment of debts, and for the other purposes of his administration,

then I report that these petitions are not for the benefit of the same persons. If, in point of fact, there are no creditors of the estate of John Aspden, late of Old street, London, deceased, and Mrs. Jones and Mrs. Poole are in truth the only children and co-heiresses of the said John Aspden, then I report that the petition of John A. Brown, administrator, &c., is substantially for the benefit of the said Mrs. Jones and Mrs. Poole. No evidence, however, has been furnished to me upon either of these points.

4. I report that John A. Brown administered on the estate of John Aspden, of London, in the capacity of "attorney for the children" of the said John Aspden, and in their right.

All which is respectfully submitted.

T. I. WHARTON,
Master.

Philadelphia, January 4, 1836.

Exemplification of proceedings in the orphan's court for the city and county of Philadelphia.

Afterwards, to wit, on the same day an exemplification of the proceedings in the orphan's court, for the city and county of Philadelphia, in the matter of the estate of John Aspden, late of Old street, London, deceased, is presented and filed by order of the court; which exemplification is in the words and of the tenor following, to wit:

In the matter of the estate of John Aspden, late of Old street, London, deceased.

To the honorable the judges of the orphan's court, for the city and county of Philadelphia.

The petition of John A. Brown, late of the city of Philadelphia, administrator of the estate of John Aspden, late of Old street, London, deceased, respectfully represents:

That Matthias Aspden, formerly of the city of Philadelphia, by his will, dated the sixth day of December, 1791, duly proved and remaining in the register's office for the city and county of Philadelphia, directing the payment of his just debts, funeral expenses, and certain legacies, gave and bequeathed his estate, real and personal, to his heir-at-law. That John Aspden, of Old street, London, of whose estate your petitioner is administrator, and who was in full life at the time of the death of the said Matthias Aspden, was such heir-at-law and residuary legatee, entitled, under the said will, to receive the whole of the estate of the Matthias Aspden after the payment of his just debts, funeral expenses, and the other legacies bequeathed by the said will; and that your petitioner, as the administrator of the said John Aspden, is now entitled to receive the said personal estate. That Henry Nixon, esquire, of the city of Philadelphia, as executor of the will of the said Matthias Aspden, proved the said will, and obtained letters testamentary from the register of wills for the city and county of Philadelphia,

on the nineteenth day of November, A. D. 1824. That the said executor possessed himself of the personal estate of the said Matthias Aspden, and after paying the just debts and funeral expenses of the testator, and the other legacies bequeathed by his will, has now a large balance in his hands, to which your petitioner, as the administrator of the estate of the said John Aspden, of Old street, London, the residuary legatee, is entitled. That the said executor has filed an account in the register's office, which has been presented to this court, by which it appears that, after paying the said debts, expenses, and other legacies, there remains in the hands of the said executor a sum of money exceeding three hundred and fifty thousand dollars. That more than a year having elapsed from the granting of the administration of the estate of the said Matthias Aspden, your petitioner prays that the said Henry Nixon, as executor of the will of the said Matthias Aspden, shall pay and deliver to your petitioner, as administrator of the estate of the said John Aspden, under the direction of your honorable court, which has jurisdiction of the accounts of the said Henry Nixon, as executor as aforesaid, the legacy so as aforesaid due and payable to the said John Aspden, according to the provisions of the act of assembly in such case made and provided.

JOHN A. BROWN.

Orphan's court, 27th December, 1834.

KING,
RANDALL.

Citation awarded against Henry Nixon, executor of the will of the said Matthias Aspden, commanding him to appear before our judges, at an orphan's court, to be held for the county aforesaid, on Friday, the 20th day of February, A. D. 1835, at 10 o'clock, a. m., at the county court-house, corner of Sixth and Chesnut streets, then and there to show cause why he, the said Henry Nixon, should not pay and deliver to the petitioner, as administrator of the estate of the said John Aspden, under the direction of this honorable court, which has jurisdiction of the accounts of the said Henry Nixon as executor as aforesaid, the legacy so as aforesaid due and payable to the said John Aspden, according to the provisions of the act of assembly in such case made and provided.

To the honorable Edward King, president, and his associates, justices of the orphan's court for the city and county of Philadelphia.

The plea of Henry Nixon to the petition of John A. Brown, of the city of Philadelphia, administrator of the estate of John Aspden, late of Old street, London, deceased.

The said Henry Nixon, by protestation, not confessing or acknowledging all or any of the matters and things in the said petition men-

tioned and contained to be true, in such sort, manner, and form as the same are therein set forth and alleged, for plea to the whole of the said petition saith: That heretofore, to wit, on the seventeenth day of June, one thousand eight hundred and thirty-four, a certain petition was presented to the justices of the circuit court of the United States, in and for the eastern district of Pennsylvania, in the names and in behalf of Jennet Jones and Thomas Poole and Mary, his wife, in right of the said Mary, setting forth that the said petitioners were the lineal descendants and heirs-at-law of John Aspden, the eldest son of Thomas Aspden and Elizabeth Scroop, formerly of Simondstone, in the county of Lancaster, in England, and as such are also the heirs-at-law of Matthias Aspden, late of the city of Philadelphia, deceased. That the said circuit court had, in the case of Packer and Nixon, executor of the said M. Aspden, deceased, April session, 1828, No. 1, in equity, pronounced a decree, which the said petitioners conceived to be erroneous and imperfect, and they therefore prayed the leave of the court to file their supplemental bill and bill of review, to enable them to become parties to the said suit, and to correct, amend, and reverse the said decree, so far as it declared John Aspden, of Lancashire, England, to be the heir-at-law of the said Matthias Aspden, the testator aforesaid, and directs the said Henry Nixon, his executor, to pay over unto the said John Aspden, of Lancashire, England, the whole balance of the personal estate of the said testator in the hands of the executor; by which decree the said petitioners declare themselves, in the said petition, to be materially afflicted and aggrieved:

1st. Because they, the said petitioners, have not been made parties to the said cause, although the decree was made in a matter in which they were interested.

2. Because the said petitioners were prevented, by the accidental detention of the vessel by which their instructions were transmitted to their agent in this country, from applying to the said court to be heard before the decree was pronounced and enrolled.

3. Because the said decree was erroneous in declaring John Aspden, of Lancashire, to be the heir-at-law of the testator, Matthias Aspden.

4. Because the solicitors of the said petitioners had discovered, within two weeks, and since the date of the said decree, two papers in the handwriting of the said testator, showing the pedigree of a part of his family, whereby it appeared that the said John Aspden, under whom the said petitioners claimed, was the elder brother of William Aspden, under whom the said John Aspden, of Lancashire, claimed, and that thus they were the heirs-at-law of the testator.

5. Because that the solicitors of the said petitioners had, since the date of the said decree, viz., on the 13th day of the said month, discovered the family bible of the testator, Matthias Aspden, in which he had written the dates of the baptisms and marriages, and the places of residence and burial, of the different members of his family; from which it appeared that the said petitioners, and not John Aspden, of Lanca-

shire, were the heirs-at-law of the testator, and entitled to his whole personal estate under the provisions of his last will and testament.

6. Because the solicitors of the said petitioners had, since the date of the said decree, to wit, on the 13th of the said month of June, discovered a trunk, partly filled with the papers of the said testator, from which it appeared that the great grandfather of the said petitioners was the eldest son of Thomas Aspden, the common ancestor of the testator and the said petitioners, and that they were thus the heirs-at-law of the said testator.

7. Because the said papers and family bible were not known to the said petitioners, or to their agent, or to either of them, at the date of said decree, and could not have been made use of by them in any way at the said hearing, or before said decree.

And the said petition was signed by James S. Smith and Henry J. Williams, esquires, as solicitors, and was sworn to by the said Henry J. Williams, esquire, and the same now remains on record in the office of the clerk of the said court; and the said solicitors for the said petitioners did, on the same day, file in writing a motion for leave to file a supplemental bill and bill of review, to review and reverse so much of the said decree as declared John Aspden, of Lancashire, to be the heir-at-law of the said testator, M. Aspden, and directs the said executor to pay over to him the whole balance of the personal estate of said testator in his hands, for the same reasons set forth as aforesaid in their said petition, and for other reasons therein set forth. And the said motion and petition were fully argued before the said circuit court, and the said prayer of the said petitioners, and the said motion, were, after full and solemn argument and deliberation, refused by the said justices of the said circuit court; and the said justices did order and decree, that the said motion should be, and it was accordingly, dismissed, to wit, on the day of last past. And the said Henry Nixon further saith, that the object and intention of said petition and motion were, to all intents and purposes whatever, the same, and not as those of the petition presented to this honorable court, and to which this plea is now entered; and that it was, in substance and truth, presented and filed by the same parties, for the same interests, by the same solicitors, under the same direction, and in all respects substantially under similar circumstances as the petition aforesaid presented to this honorable court, the difference being in name and form only; the said petition before this honorable court being presented in the name of John A. Brown, administrator of the estate of John Aspden, late of Old street, London, in behalf of Jennet Jones and Thomas Poole and Mary, his wife, in right of the said Mary; and the said petition in the circuit court being presented and filed in the names of the the said Jennet Jones and Thomas Poole and Mary, his wife, in right of the said Mary, for whom the funds, if they could be procured in either case, are designed, and for no other use, intent, or purpose whatsoever.

And the said Henry Nixon further saith, that at the time when the

said petition was presented, and motion filed in the circuit court aforesaid, this honorable court had no jurisdiction of the subject matter now presented for its consideration by the petition to which this plea is put in, the act of assembly of Pennsylvania having gone into operation only on the first day of October, 1834; and at the time when the said petition was presented and motion made in the circuit court, that court had sole and exclusive jurisdiction of the subject matter submitted to it, and decided and determined as aforesaid; and the said decree and determination of the said court remains unreversed and unchanged, and is final and conclusive of the matter which it purports to pass upon and decide.

The said Henry Nixon further states that John Aspden, of Old street, London, in his lifetime, filed a bill in the high court of chancery in England, some time in or about the year 1825, claiming to be heir-at-law of Matthias Aspden aforesaid, and as such entitled to the whole of his personal estate. On the death of the said John Aspden, the bill so filed by him was revived by the said daughters of the said John, the petitioners in the said proceeding before the circuit court; and the said bill, after a reading before the said court of chancery, was dismissed. The said daughters of the said John Aspden afterwards filed their bill in the court of exchequer, in England; to that bill the decree of the court of chancery, dismissing the bill so as aforesaid presented in the court of chancery, was pleaded in bar, and upon that plea this said bill in the court of exchequer was dismissed. The funds which were in England belonging to the estate of Matthias Aspden were thereupon (being liberated as aforesaid) transmitted to the hands of the executor. In the mean time, proceedings had been instituted in the circuit court of the United States, which are referred to in the aforesaid petition, filed in that court, in which the said John Aspden, of Lancashire, England, claimed to be the heir-at-law of the said Matthias Aspden, and entitled to the said fund.

Public notice of these proceedings *were* given to all persons claiming to be interested, by advertisement and otherwise. The administrator of the said John Aspden, of London, now the petitioner before this honorable court, was fully informed of the state and condition of the said proceedings. A final decree of the said circuit court of the United States was made more than twelve months ago, directing the said executor to pay the whole of the said funds to John Aspden, of Lancashire. An appeal from the said decree has been taken to the Supreme Court of the United States, and is now depending before that tribunal. The said Henry Nixon further saith, that, at the time when the said petition was presented to this honorable court, his accounts were actually undergoing the examination of auditors appointed by this court, and are still before it for settlement. The said Henry Nixon, in all respectful manner, suggests, urges, and pleads, that the said proceedings, and especially the said order and decree of the circuit court, dismissing the said petition, are a bar to any further proceedings upon the petition presented as aforesaid to this honorable court. And there-

fore he doth aver and plead the same, and humbly demands judgment, whether it will entertain the said petition, and enforce the said Henry Nixon to answer the said petition for the causes aforesaid. And he prays to be hence dismissed, with his reasonable costs and charges in this behalf wrongfully sustained.

J. R. INGERSOLL,
For Henry Nixon.

O. C., 16*th January*, 1835.

KING,
RANDALL,
FERGUSON,
KNIGHT. } Ordered to be filed.

In the orphans' court, in and for the city and county of Philadelphia.

The petition of John A. Brown, administrator of John Aspden, late of Old street, London, deceased,

Respectfully showeth:

That your petitioner, on the 27th day of December, A. D. 1834, obtained from this honorable court a citation, directed to Henry Nixon, executor of Matthias Aspden, deceased, to show cause why he should not pay over to your petitioner a large legacy, to which his intestate had in his lifetime become entitled, under the will of the said Matthias Aspden. To this citation a plea and answer was put in by the said Henry Nixon, executor as aforesaid, praying, for certain reasons therein stated, and among them the institution of certain proceedings before the circuit court of the United States, E. D. of Pennsylvania, in a certain suit there depending between Samuel Packer, complainant, and the said Henry Nixon, executor as aforesaid, defendant, in relation to the estate of the said Matthias, that the said Henry should not be enforced to make answer, and that the said citation should be dismissed. Now your petitioner shows unto your honors, that he has, by an order of the said circuit court of the United States for the eastern district of Pennsylvania, been admitted as a party to the said suit of Packer vs. Nixon, executor as aforesaid, and as such this petitioner has prayed the said circuit court to direct and decree that the said executor of Matthias Aspden shall pay him the legacy to which he is as aforesaid entitled. Whereupon, your petitioner agrees that the said citation be dismissed, and that the executor aforesaid shall not be enforced to answer, according to the terms and requisitions thereof.

And he will pray, &c.

H. J. WILLIAMS,
Attorney for Jno. A. Brown.

July 15, 1835.

O. C., 17*th July*, 1835.

RANDALL,
KNIGHT. } Prayer of petitioner granted.

CITY AND COUNTY OF PHILADELPHIA.

I certify that the above and foregoing are true copies of the original documents now remaining on file among the records in the office of the clerk of the orphan's court for the city and county of Philadelphia; and I do further certify, that at an orphan's court for the city and county aforesaid, held at Philadelphia on the eighteenth day of September, 1835, before the honorable Edward King, president, and his associates, justices of the said court, the settlement of the account of Henry Nixon, esquire, executor of Matthias Aspden, was presented to the court, and referred to J. W. Ashmead, W. King, and W. Nesbit, esquires, as auditors.

[Seal of the court.] Witness my hand and the seal of the said court, this second day of January, 1835. (6.)

ROBERT ANDREWS, *Clk. O. Ct.*

Letters of administration to John A. Brown, on the estate of John Aspden, of London, deceased.

PHILADEPHIA CITY AND COUNTY, *ss.*

[Seal of register's office.] John Humes, esquire, register for the probate of wills and granting letters of administration in and for the city and county of Philadelphia, in the Commonwealth of Pennsylvania.

To John A. Brown, greeting:

Whereas, John Aspden, formerly of Old street, London, lately died intestate, as is sworn, having, whilst he lived and at the time of his decease, divers goods and chattels, rights and credits, within the said county, by means whereof the full disposition and power of granting letters of administration thereof is manifestly known to belong to me. I, therefore, desiring that the goods and chattels, rights and credits, which were of the said deceased, may be well and truly administered, converted, and disposed of, according to law, do hereby grant unto you, the said John A. Brown, full power, by the tenor of these presents, to administer the goods and chattels, rights and credits, which were of the said deceased within the said county; as also to ask, collect, levy, recover, and receive the credits whatsoever of the said deceased, which, at the time of his death, were owing or did in any way belong to him; and to pay the debts in which the said deceased stood obliged, so far forth as the said goods and chattels, rights and credits, will extend, according to their rate and order of law; especially of well and truly administering the goods and chattels, rights and credits, which were of the said deceased, and making a true and perfect inventory and conscionable appraisement thereof, and exhibiting the same into the register's office at Philadelphia, on or before the twenty-seventh day of January next ensuing; and also a true and just account, calculation, and reckoning of your administration, upon your solemn oath, to render, at or before the twenty-seventh day of December, in the year of our Lord one thousand eight hundred and thirty-five, or when legally thereunto required.

And I do, by these presents, ordain, constitute, and depute you, the said John A. Brown, administrator of all and singular the goods and

chattels, rights and credits, which were of the said deceased, within the limits aforesaid, saving harmless and forever indemnifying me, and all other officers, against all persons, by reason of your administration aforesaid, and saving all other their rights, &c.

In testimony whereof I have caused the seal of the said office to be hereunto affixed. Dated at Philadelphia aforesaid, the twenty-seventh day of December, in the year of our Lord one thousand eight hundred and thirty-four. J. HUMES, *Register*.

[Filed 4 January, 1836, by order of court.]

Bond of John A. Brown, administrator of John Aspden, of London.

Know all men by these presents, that we, John A. Brown, of the city of Philadelphia, Abraham J. Lewis and William McKee, of said city, are held and firmly bound unto the Commonwealth of Pennsylvania in the sum of eight hundred thousand dollars, to be paid to the said commonwealth. To the which payment, well and truly to be made, we bind ourselves, jointly and severally, for and in the whole, our heirs, executors, and administrators, and each and every of them, firmly by these presents. Sealed with our seals. Dated the twenty-seventh day of December, in the year of our Lord one thousand eight hundred and thirty-four.

The condition of this obligation is such, that if the above bounden John, administrator of all and singular the goods, chattels, and credits of John Aspden, late of Old street, London, deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels, and credits of the said deceased which have or shall come to the hands, possession, or knowledge of him, the said John, administrator as aforesaid, or unto the hands or possession of any other person or persons for him, and the same so made to exhibit, or cause to be exhibited, into the register's office, in the county of Philadelphia, on or before the twenty-seventh day of January next ensuing; and the same goods, chattels, and credits, and all other the goods, chattels, and credits of the said deceased at the time of his death, which at any time after shall come to the hands or possession of the said John, administrator as aforesaid, or unto the hands and possession of any other person or persons for him, do well and truly administer according to law. And further do make, or cause to be made, a true and just account of his said administration at or before the twenty-seventh day of December, 1835, or when thereunto legally required. And all the rest and residue of the said goods, chattels, and credits which shall be found remaining upon the said administration account, (the same being first examined and allowed of by the orphans' court of the city and county of Philadelphia,) shall deliver and pay unto such person or persons respectively as the said orphans' court by their decree or sentence, pursuant to law, shall limit and appoint, and shall well and truly comply with the laws of this commonwealth relating to collateral inheritances. And if it shall hereafter appear that any last will and testament was made by the

said deceased, and the same shall be proved according to law, if the said John, administrator as aforesaid, being thereunto required, do surrender the said letters of administration into the register's office aforesaid, then this obligation to be void and of none effect, or else to remain in full force and virtue.

JOHN A. BROWN, [L. S.]
A. J. LEWIS, [L. S.]
WM. McKEE. [L. S.]

Sealed and delivered in the presence of—
J. B. SEWALL.

On the twenty-seventh day of December, A. D. 1834, personally appeared the within named John A. Brown, who, being duly sworn, doth depose and say, that he believes that the within mentioned John Aspden died without a will, and that he will well and truly administer all and every the personal estate of the said deceased, and pay his debts as far as his personal estate will extend; that he will exhibit a true, full, and perfect inventory of the personal estate of the said deceased in one month, and render a true account of his administration unto the register's office in one year, or when he shall be thereunto lawfully required. And, also, that he takes letters as attorney for the children of said deceased; and that the whole of the goods, chattels, rights and credits, he died possessed of, do not in value exceed the sum of four hundred thousand dollars, to the best of his knowledge and belief; and that he will diligently and faithfully regard, and well and truly comply with, the provisions of the act relating to collateral inheritance.

JOHN A. BROWN.

Sworn and subscribed, the day and year aforesaid, before me.

J. B. SEWALL,
Deputy register.

[Filed 4th January, 1836, by order of court.]

Inventory of the goods and chattels, rights and credits, of the estate of John Aspden, late of Old street, London, deceased, so far as the same have come to the knowledge of John A. Brown, administrator of the estate of the said deceased:

No goods or chattels whatever, belonging to the said estate, have come to the knowledge or to the hands of the said administrator.

And the only rights and credits to which the said decedent was entitled at the time of his death, so far as the same have come to the knowledge of the said administrator, is the balance of the estate of Matthias Aspden, deceased, in the hands of Henry Nixon, esquire, executor of said estate, to which the said John Aspden is believed to be entitled, as residuary devisee, under the will of the said Matthias. This claim is however denied and disputed by a variety of persons, by whom the whole of the estate of the said Matthias is alleged to have been bequeathed to other persons than the said John.

By the account of the said Henry Nixon, the estate of the said Mat-

thias appears to amount to the sum of four hundred and ten thousand dollars, which remains in his hands, to be disposed of according to law, as will appear from said accounts filed in the office of the register of wills, &c., of the county of Philadelphia.

$410,000 00.

JOHN A. BROWN.

Filed January 29th, 1835.

J. B. SEWALL,
Deputy register.

[Filed 4 January, 1836, by order of court.]

Bill of revivor and proceedings in the court of exchequer in England.

To the right honorable John Singleton, Baron Lyndhurst, of Lyndhurst, in the county of Southampton, Lord High Chancellor of Great Britain:

Humbly complaining, show unto your lordship, your oratrixes and orator, Jenet Jones, otherwise Janet Jones, of Old street, in the parish of St. Luke in the county [of] Middlesex, widow, and Thomas Poole, Chequer court, Old street, in the same parish, and Mary, his wife, that John Aspden, deceased, on or about the thirtieth day of July, 1835, filed his bill in this honorable court against Henry Nixon, Samuel Williams, John Sterling, the governor and company of the Bank of England, the honorable company of merchants trading in the East Indies, the honorable company of merchants trading to the South seas, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, praying that an account might be taken, by and under the direction of this honorable court, of the personal estate and effects of Matthias Aspden, the testator in the said bill named, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or any other person or persons by his order, or for his use, or got in and possessed, or secured in any way, since the decease of the said testator; and that such personal estate and effects might be applied in payment of the said testator's funeral and testamentary expenses, debts, and legacies in a due course of administration, and that the residue of such personal estate and effects might be ascertained, and that the said complainant might be declared by this honorable court to be entitled, upon the true construction of the said will, as heir of the said testator to such residue, and that such residue might be accordingly directed by this honorable court to be paid to the said complainant; and that in the mean time the said defendant, Henry Nixon, and the said defendants, Samuel Williams and John Sterling, might be restrained by the injunction of this honorable court from collecting and receiving any part of the personal estate and effects of the said testator in this country, and particularly from selling or transferring the sums of £4,000 bank stock, £10,000 three per cent. consolidated bank annuities, £12,500 £3 10 per cent. reduced bank annuities, and £3,500 new £4 per cent. reduced bank annuities, standing in the books of the said gover-

nor and company of the Bank of England in the name of the said testator; the sum of £3,000 stock standing in the books of the said East India company in the name of the said testator; and the sum of £5,000 stock standing in the books of the said South Sea company in the name of the said testator; and from receiving the dividends thereon respectively, and the moneys, securities, and effects, then in the hands of the said defendants, Messrs. Hoare, as bankers of the said testator; and that the said defendants, the governor and company of the Bank of England, and the said defendants, the East India company, and the said defendants, the South Sea company, might be respectively restrained from permitting any transfers of such respective sums to be made; and that also the said defendants, the governor and company of the Bank of England, might be directed to transfer the said respective stock and annuities standing in the name of the said testator in their books, and also the dividends accrued thereon respectively in the name of the accountant general of this honorable court in this cause; and also that proper directions might be given for the sale of the said stock respectively, standing in the name of the said testator in the respective books of the East India company and of the South Sea company; and that the moneys arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the three per cent. consolidated bank annuities in the name of the said accountant general, in trust, in this cause; and that the defendants, Messrs. Hoare, might be restrained from paying and delivering the said moneys, securities, and effects of the said testator in their hands to the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling; and that the said defendants, Messrs. Hoare, might be ordered to pay the said money of the said testator in their hands into court; and that the said defendants, Samuel Williams and John Sterling, might be restrained by injunction of this honorable court, from remitting any part of the personal estate and effects of the said testator in this country to the said defendant, Henry Nixon; and that some proper person might be appointed by this honorable court to receive and get in all other outstanding personal estate and effects of the said testator. And your oratrixes and orator further show unto your lordship, that the said several defendants to the said bill appeared and put in their answers thereto, and that the said bill was, by virtue of an order made on or about the 28th day of May, 1827, amended, and Esther Hartley made a defendant thereto, but that no further proceedings have been had in the said suit, as by the said bill and other proceedings, reference being thereto had, will more fully and at large appear. And your oratrixes and orator further show unto your lordship, that the said plaintiff, John Aspden, afterwards, and on or about the first day of March, 1828, departed this life, a widower and intestate, leaving your oratrixes, his only children, him surviving, who are his only next of kin and his co-heirs; and that your oratrixes, on or about the eleventh day of March, 1828, obtained letters of admin-

istration of the goods and chattels, debts and credits, of the said testator, to be granted to them by and out of the prerogative court of the Archbishop of Canterbury, and by virtue thereof became, and now are, his personal representatives; and that they are entitled to all the benefits which the said intestate was entitled to under and by virtue of the last will of the said testator, Matthias Aspden. And your oratrixes and orator further show, that the said suit and proceedings became abated by the death of the said John Aspden, and that your oratrixes and orator are advised that they are entitled to have the said suit and proceedings revived against the said defendants, and to be put in the same plight and condition as the same were in at the time of the abatement thereof. To the end, therefore, that the said suit and proceedings, which so became abated as aforesaid, may stand revived, and be in the same plight and condition as the same were in at the time of the death of the said John Aspden, or that the said defendants may show good cause to the contrary, may it please your lordship, the premises considered, to grant unto your oratrixes and orator his majesty's most gracious writ or writs of subpœna, issuing out of, and under the seal of, this honorable court, to be directed to the said Henry Nixon, Esther Hartley, Samuel Williams, John Sterling, the governor and company of the Bank of England, the East India company, the South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, thereby commanding them, and every of them, at a certain day, and under a certain pain therein to be limited, personally to be and appear before your lordship in this honorable court, and then and there to answer the premises, and show cause, if they can, why the said suit, and all the proceedings therein, should not stand revived and be in the same plight and condition as they were in at the time of the decease of the said John Aspden; and that the cause and proceedings may stand revived, and the said Henry Nixon, Esther Hartley, Samuel Williams, John Sterling, the governor and company of the Bank of England, the East India company, the South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, stand to, perform, and abide by such order, direction, and decree herein as to your lordship shall seem meet; and your oratrixes and orator shall ever pray, &c.

S. F. MILFORD.

VICE CHANCELLOR. Messrs. MILNE & Co.

Saturday, the seventeenth day of July, in the first year of the reign of his majesty King William the Fourth, one thousand eight hundred and thirty, between Jennet Jones, otherwise Janet Jones, and Thomas Poole and Mary, his wife, plaintiffs, Henry Nixon, Samuel Williams, John Sterling, the governor and company of the Bank of England, the honorable company of merchants of England trading to the East Indies, the honorable company of merchants trading to the South seas, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Mer-

rick Hoare, and Esther Hartley, out of the jurisdiction of the court, defendants, by original and amended bill and bill of revivor.

This cause coming on this present day to be heard and debated before this court, in the presence of counsel, learned, for the plaintiffs, and for all the defendants, except the defendant, Esther Hartley. Upon debate of the measure and hearing, an order dated the ninth day of August, one thousand eight hundred and twenty-five, an order dated the thirty-first day of July, one thousand eight hundred and twenty-one, and the accountant general's certificate read, and what was alleged by the counsel for the plaintiffs, and for the said defendants, this court doth order that the injunction awarded in the original cause of Aspden vs. Nixon, pursuant to an order made in the said cause, bearing date the ninth day of August, one thousand eight hundred and twenty-five, to restrain the defendants, Samuel Williams and John Sterling, from selling and transferring the four thousand pounds bank stock, ten thousand pounds three pounds per cent. consolidated annuities, six thousand five hundred pounds three pounds ten shillings per cent. reduced annuities, and six thousand pounds bank four pounds per cent. annuities, not assented to; the said six thousand five hundred pounds and six thousand pounds in the said injunction stated by mistake as twelve thousand five hundred pounds reduced three pounds ten shillings per cent. annuities; and three thousand five hundred pounds new four per cent. annuities; and the said last named defendants to be restrained from selling or transferring the said three thousand pounds East India stock, and five thousand pounds South Sea stock; and that the said defendants, Samuel Williams and John Sterling, should be, in like manner, restrained from receiving any dividends, due or to accrue due, on the said bank annuities and stocks respectively, save and except the dividends then already due on the said East India and South Sea stocks; and that the said defendants, the governor and company of the bank of England, should also be restrained from making or permitting to be made, any transfer or sale of the said bank annuities and stocks, and from paying any dividends thereon; and that the said defendants, the East India company, should be, in like manner restrained from making, or permitting to be made, any sale or transfer of the three thousand pounds East India stock; and that the said defendants, the South Sea company, should be, in like manner, restrained from making or permitting to be made any transfer or sale of the five thousand pounds South Sea stock; and that the said defendants, the East India company and the South Sea company, should be also, in like manner, restrained from paying any future dividends to accrue due upon the said East India stock and South Sea stock respectively, until the defendants should fully answer the petitioner's bill, or this court make other order to the contrary, be dissolved; and it is ordered that the sum of two hundred and twenty-eight pounds one shilling and eleven pence, cash in the bank placed to the credit of the cause Aspden and Nixon, be paid to the defendant, Henry Nixon; and for the purposes aforesaid the said accountant gen-

eral is to draw on the bank according to the form prescribed by the act of parliament, and the general rules and orders of this court in that case made and provided; and this court doth order that the plaintiffs' bill do stand dismissed out of this court, with costs, to be taxed by the master of this court in rotation. J. C. FRY, *Dep. Rr.*

Examined. For MR. BEDWELL.

[Filed January 4, 1836, by order of court.]

Proceedings of court on stating the points of difference to be certified to the Supreme Court of the United States.

Afterwards, to wit, on the sixth day of January, in the year last aforesaid, in directing what papers in this cause, and other proceedings between the parties in this suit, in relation to the subject matter thereof, the court (having inspected an original bill and papers thereto attached, No. 1, to April session, 1835, Jennet Jones and Thomas Poole and Mary, his wife, vs. Henry Nixon and John Aspden, of Lancashire,) stated to the counsel of the parties, that if it was intended by the complainants to prosecute this suit the court would direct the bill, &c., to be sent to the Supreme Court; otherwise they would not be sent up.

Mr. Smith, counsel for the complainants, stated to the court, that the court having stated that they wished to refer their difficulty to the Supreme Court to determine whether the parties should make an election, or to direct what course they should pursue, we submit the matter implicitly to the Supreme Court: whereupon, the court here direct the bill and papers aforesaid to be sent to the Supreme Court, with the proceedings in this suit; which bill and papers are in the words and of the tenor following, to wit:

In the circuit court of the United States, in and for the eastern district of the State of Pennsylvania.

Filed 10th January, 1835.

JANET otherwise JENNET JONES, widow of David Jones, deceased, late of the city of London, and Thomas Poole and Mary, his wife, (in right of said Mary,) also of said city of London, aliens and subjects of the King of the united kingdom of Great Britain and Ireland, complainants,

vs.

HENRY NIXON, esquire, a citizen of the State of Pennsylvania, executor of the last will and testament of Matthias Aspden, late a citizen of the same State, and JOHN ASPDEN, of Lancashire, England, a subject of the King of the united kindom of Great Britain and Ireland, defendants.

In equity, April session, 1835.

Humbly complaining show unto your honors your oratrix Janet,

otherwise Jennet Jones, widow of David Jones, deceased, late of the city of London, and Thomas Poole and Mary, his wife, in right of the said Mary, also of the city of London, aliens and subjects of the King of the united kingdom of Great Britain and Ireland.

That Matthias Aspden, late of the city of Philadelphia, in the State of Pennsylvania, duly made and published his last will and testament in writing, bearing date the sixth day of December, anno domini one thousand seven hundred and ninety-one, and therein and thereby, after directing all his just debts and funeral expenses to be paid, and giving sundry legacies to persons therein named, did give and bequeath all his estate, real and personal, to his heir-at-law; and the said testator, by a codicil bearing date the day and year last aforesaid, did give several other legacies to persons therein named, and by another codicil, without a date, did further direct and appoint that George Roberts and Mr. Abram Lidden, with the president of the old bank at the time being, should be the executors of his the said testator's said last will, as by the said last will and testament, duly proved and remaining of record in the office of register of wills, in the said city of Philadelphia, a copy whereof is hereunto annexed, which your orator and oratrixes pray may be taken as a part of their bill, as if fully recited herein, will fully appear.

And your orator and oratrixes further show unto your honors that the said testator departed this life on the ninth day of August, A. D. 1824, in the said city of London, without having revoked or altered his said will, and without issue, he never having been married; and that the said George Roberts and Abram Lidden both died in the lifetime of the said testator; and that the president of the old bank at the time of the death of the testator was Henry Nixon, esquire, one of the defendants hereinafter named, the said testator by the expression "the old bank," meaning the bank of North America in the city of Philadelphia; and that the said Henry Nixon, the president of the said bank of North America, soon after the death of the said testator, viz., in the month of November, in the year of our Lord one thousand eight hundred and twenty-four, proved the said above recited will of the said testator in the city of Philadelphia, and has obtained probate thereof, and taken out letters testamentary from the office of the said register of wills, in the said city of Philadelphia, according to law, and thereby became the legal personal representative of the said testator; and he, the said Henry Nixon, hath possessed himself of the whole personal estate of the said testator, so far as the same has come to his knowledge, in this country and elsewhere; and after paying all legacies, debts, funeral, and other expenses of the said testator, has a large sum now in his hands, exceeding three hundred and fifty thousand dollars, which of right belongs to your complainants.

And your orator and oratrixes further show unto your honors that the said testator, at the time of his death, left John Aspden, of Old street, London, the father of your oratrixes, Janet, otherwise Jennet Jones, and Mary Poole, his heir-at-law; and as evidence thereof your orator

and oratrixes further show that Thomas Aspden, of Simondstone, in Lancashire, England, was the common ancestor of the testator, and of the father of your oratrixes, the said John Aspden, and died many years ago, having had issue twelve children, the eldest of whom was named John Aspden, who was baptized at Padium, Lancashire, on the fourth day of August, A. D. 1689, and was buried at Deptford, Kent, in England, in the year 1754; and the second of the said twelve children was named William Aspden, who was baptized at Padium, Lancashire, on the twenty-sixth day of July, A. D. 1691, and buried at Harewood, Lancashire; and the third of the said twelve children was named Matthias, who was baptized at Padium aforesaid, on the fourth day of May, A. D. 1695, and buried at Philadelphia.

And your orator and oratrixes further show unto your honors that the eldest son of the said Thomas Aspden, of Simondstone, the said John Aspden, left issue one only son, Andrew Aspden, who died and was buried at Deptford aforesaid, in the year 1771, leaving the said John Aspden, of Old street, London, the father of your oratrixes, his only child and heir-at-law.

And your orator and oratrixes further show unto your honors that the father of the said testator was Matthias Aspden, the third son as aforesaid of the said Thomas Aspden, the common ancestor. And the said Matthias, being resident in America, married there an American woman, by whom he there had issue some time after his marriage one only child, viz., the said testator; and the said Matthias, the father of the said testator, died, on or about the year 1765, in Philadelphia aforesaid, leaving the said testator his only lawful issue him surviving, and upon failure of issue of the said Matthias, the testator, and of the said Matthias, the father of the said testator, the said John Aspden, the father of your oratrixes, as the grandson and heir-at-law of the said John Aspden, the eldest son of Thomas Aspden, of Simondstone, and the eldest brother of the father of the said testator, became at the death of the said testator his heir-at-law, and as such entitled under his will aforesaid to the residue of his estate, real and personal, after payment of his debts, legacies, and charges, which residue amounts to a large sum, and is now in the hands of Henry Nixon, the executor aforesaid.

And your orator and oratrixes further show unto your honors, that the said testator, at or shortly before the time at which he made and published his said will, entered in his family bible the names of his paternal uncles and his and their common ancestor, and made other memoranda, showing the dates and times of their respective baptisms and deaths, (copies whereof are hereunto annexed, and which the complainants pray may be taken as part of this their bill,) by all which it appears that he, at the said time of making his will, knew that John, the son of Thomas Aspden, of Simondstone, was his eldest paternal uncle, and that William was the second son of the said Thomas, and younger than his brother the said John; and also in sundry letters and other documents in his handwriting, or signed by him, recognised John Aspden, of London, and also your oratrixes, as his relations.

And your orator and oratrixes further show unto your honors that John Aspden, of Old street, London, the father of your oratrixes, died intestate in the said city of London in the year 1828, leaving your oratrixes his only children, and as such entitled to his whole estate, real and personal, and to the residue of the personal estate of the said Matthias Aspden, the testator, in the hands of his executor, the said Henry Nixon, and elsewhere; and your orator and oratrixes have frequently and in a friendly manner applied to said executor, and have requested him to account for and pay over to them the said residue of the estate of the said testator, and still hoped that such their reasonable request would be complied with, as in justice and equity it ought to have been.

But now so it is, may it please your honors, that the said Henry Nixon, executor as aforesaid, combining and confederating with the said John Aspden, the other defendant, and with several other persons at present unknown to your orator and oratrixes, whose names when discovered your orator and oratrixes pray may be inserted herein, and they made parties defendants hereto, with proper and apt words to charge them, and contriving how to injure and oppress your orator and oratrixes in the premises, sometimes pretend that William Aspden, who was the second son of Thomas Aspden, of Simondstone, the common ancestor above mentioned, and the ancestor of the defendant John Aspden, was the eldest son of the said Thomas, and the eldest paternal uncle of the said testator, and that the said John, as the heir-at-law of the said William, was also the heir-at-law of the said testator, and as such entitled to his whole estate in the hands of his executor as aforesaid; and at other times pretend that some other persons are the heirs-at-law of the said testator and entitled to his whole estate; whereas, your orator and oratrixes charge the contrary to be the truth, and that John Aspden, of London, was the heir-at-law of John Aspden, the eldest son of Thomas Aspden, of Simondstone, the common ancestor and the eldest paternal uncle of the said testator; that your oratrixes were his, the said John's, only children; and that thus the said John, during his life, and your oratrixes after his death, were in law and in fact the heirs-at-law of the said testator, and as such entitled to his whole estate; all which they expressly charge is, and always was, well known to the said defendants.

In consideration whereof, and forasmuch as your orator and oratrixes are remediless in the premises by the strict rules of the common law, and cannot have adequate relief except in a court of equity, where such matters are properly cognizable and relievable; to the end, therefore, that the said Henry Nixon, executor as aforesaid, and the said John Aspden, defendants above named, and their confederates when discovered, may upon their several and respective oaths, according to the best of their several and respective knowledge, remembrance, information and belief, a full, true, direct, and perfect answer make to all and singular the matters aforesaid, and that as fully as if the same were here repeated, and they particularly interrogated thereto; and more especially that they, the said defendants, may, in manner aforesaid, set forth

whether the said Thomas Aspden, of Simondstone, was not the common ancestor of the testator, and your oratrix's father, the said John Aspden, of London; and whether the said Thomas Aspden, of Simondstone, had not twelve children, whereof John Aspden was the eldest, William Aspden the second, and Matthias Aspden the third; and whether the said John Aspden, the son of Thomas, was not baptized at Padium, at Lancashire, on the fourth or some other day of August, A. D. 1689, the said William on the twenty-sixth, or some other day of July, A. D. 1691; and whether the said testator was not the only son of the said Matthias, the third son of Thomas Aspden aforesaid; and whether the said testator did not shortly before, or at the time at which he made his last will and testament aforesaid, make entries in his family bible, showing that he knew that John Aspden, the son of Thomas Aspden, was his eldest paternal uncle, and that William, the son of Thomas, was younger than the said John; and whether your orator and oratrixes are not the only children of the said John Aspden, of London; and whether the said John Aspden, of London, the father of your oratrixes, was not the heir-at-law of the said John Aspden, the eldest paternal uncle of the said testator; and whether the said John Aspden, of London, the father of your oratrixes, was not, and whether your oratrixes are not the heirs-at-law of the said Matthias, the testator; and whether the said testator did not in sundry letters and other documents in his handwriting, or signed by him, recognise the said John Aspden, of Old street, London, and your oratrixes as his relations. And whether the said Henry Nixon hath not refused to pay over to your orator and oratrixes the moneys in his hands as executor aforesaid, and why he doth so refuse; and that he may answer whether he hath not collected and now hath in his hands a large sum of money, part of the personal estate and effects of the said testator, or how the same has been disposed of; and that the said defendant, Henry Nixon, may be decreed to pay over to your orator and oratrixes the clear residue and surplus of the estate of the testator in his hands, under and by virtue of the provisions of the said testator's will; and for such further relief as the nature of their case may require, and unto your honors shall seem meet.

May it please your honors to grant a writ of subpœna, to be directed to the said Henry Nixon, executor as aforesaid, and to the said John Aspden, of Lancashire, England, commanding them on a day certain, and under a certain pain therein to be limited, to be and appear before your honors, and then and there to make full and true answers to all the premises; and further, to stand, abide, and perform such other order, direction, and decrees therein as to your honors shall seem meet.

And your orator and oratrixes will ever pray, &c., &c.

HENRY J. WILLIAMS,
Solicitor for the complainants.

These are to certify, that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and personal, to my heir-at-law, first paying all my just debts and funeral expenses, and the following legacies: First, to each of the children of my half-brother, Benjamin Hartley, deceased, that may be alive at my death, the sum of one hundred pounds to each, Pennsylvania currency; and to my half-sister, Bersheba Zane, wife of Elnathan Zane, the sum of four hundred pound, Pennsylvania currency, both of the above living, or did live, at or near Heddonfield; and to my half-brother, Roger Hartley, living at present in Lancaster county, the sum of three hundred pound, of the like currency. Witness my hand, this 6th day of December, 1791. Philadelphia.

MATTHIAS ASPDEN.

Least any question should arise about the legitimacy of my birth, it is my will that my estate, real and personal, should go to the party who would be my lawful heir in case there might arise no doubt on that head. It is firmly believed by from the best information that my birth was after marriage.

Philadelphia, Dec. 6th, 1791.

I do further give one hundred pounds current to each of the children of my deceased half-sister, Ann Hinchman, that may be living at my death.

December 6th, 1791.

The last of will of Matthias Aspden. I do hereby appoint my friends, Mr. George Roberts and Mr. Abram Lidden, with the president of the old bank at the time being, to be my executors to this my last will.

MATTHIAS ASPDEN.

NOTE.—My property in England is as follows:

£12,500 in the 4 per cent. stock.
3,000 in the 5 per cent. stock.
1,800 in the 3 per cent. stocks.

(The will of Matthias Aspden, the testator, referred to in the annexed bill.)

Entry in the family bible of Matthias Aspden, the testator within named, referred to in the annexed bill.

November 21st, 1748, was born.

November 21st, 1748, was born Matthias Aspden, jr. Matthias Aspden, senior, departed this life August 19th, 1765, in the seventy-fifth year of his age, in Philadelphia, and buried in Friends' burying ground, leaving a daughter named Mary, born at Padium, Lancashire, Old England. 1718, married to the late Henry Harrison, esq., deceased, of Philadelphia, and a son named Matthias, the person named above, who writes this, and believes, from good information,

that he was born in the year 1757 or 8, and not 1748, and that therein was a mistake; the same being inserted by his father (say first line) in his handwriting shortly before his death, with and adding further who was born, which led him from his illness and difft. account; told him of this age to believe it was him, and appointed in his will one of his executors.

His father, Thomas Aspden, was born in or about the year 1648, (believed at Clone House, near Blackburn) Lancashire, and of a respectable and ancient family; married in the year 1688 Elizabeth Scroop, a descendant of the ancient and noble family of that name; was buried at Padium, in that country, March 3, 1728. His wife at the same place, August 27, 1727, leaving the following children, all born at Simondstone, near Padium, and baptized at the latter place. 1st. John, baptized at Padium, August 4, 1689; buried at Deptford, in Kent.

3. Andrew, ditto; buried at Padium.
2. Matthias, buried in Philadelphia.
4. Thomas, buried at Coln, Lancashire.
5. Nathaniel, buried Magnus Harwood.
6. Timothy, buried at Padium.
7. Richard, in the army at Port Mahon.
8. Ralph, and 9th, James, both buried in Virginia.
10. William, buried at Magnus Harwood, Lancashire.
11. Mary, and 12, Margaret, two daughters, both at Padium.

Rebecca Aspden, to the above Matthias Aspden, senr., merchant, and mother to Matthias Aspden, jr., buried in Philadelphia, in the Friends' burying ground, Oct., 1773, leaving alive at her death by Roger Hartley, yeoman, of Buckingham, Bucks county, her former husband, three sons and three daughters, and upwards of thirty grandchildren.

Philadelphia, Nov. 27, 1791.

Memorandum in the handwriting of Matthias Aspden, the testator within named.

Thomas Aspden, of Simondstone, near Padium, Lancashire, born on or about the year 1648; married Elizabeth Scroop, a descendant of the ancient and honorable family of that name, in the year 1688, and had by the said Elizabeth the following children, born at Simondstone, and baptized at Padium.

John, son of Thomas Aspden, baptized Aug. 4, 1689; buried, Deptford, Kent.

William, son of Thomas Aspden, bapt. July 26, 1691; buried, Harewood, Lancashire.

Matthias, son of Thos. Aspden, bapt. May 4, 1695; buried at Philadelphia.

Nathaniel, son of Thos. Aspden, bapt. April 18, 1697, Harewood, Lancashire.

Andrew, son of Thos. Aspden, bap. Dec. 28, 1701; buried at Padium, Lancashire.
Margery, daughter of Thos. Aspden, bap. June 4, 1704.
Mary, daughter, buried at Padium.
Timothy, do. do.
Thomas, do. Coln.
Richard, buried at Port Mahon.
Ralph, James, } buried in Virginia.
Thomas Aspden, the father, buried at Padium, March 3d, 1728.
Elizabeth, wife of Thos. Aspden, buried at Padium, August 27th, 1727.

UNITED STATES, *district of Pennsylvania, sct.*

I certify the foregoing to be a true and faithful copy of the original filed and now remaining among the records of the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, in my office.

Witness my hand and the seal of said circuit court, at Philadelphia, this eleventh day of January, A. D. 1836, and in the sixtieth year of the independence of the said United States.

[SEAL.]

FRAS. HOPKINSON, *C. C. C.*

Exhibits referred to in the pleas in bar and in the amended answer of Henry Nixon.

PACKER vs. NIXON.

Exhibit.

FRA. HOPKINSON,
Clerk C. C.

January 11, 1836.

LONDON.

Thomas Peters, of Hemlock court, Carey street, in the county of Middlesex, clerk to Messrs. Barrow, Vincent and Plumley, of Bassinghall street, in the city of London, gentlemen, upon his oath, deposeth and saith, that the paper writing hereto annexed, marked with the letter A, is a true copy of a decree or decretal order of the right honorable Sir Lancelot Shadwell, knight, vice chancellor of his majesty's high court of chancery, duly passed and entered as a decree or decretal order of the said court by a register and other proper officer of the said court, in a cause or suit instituted in the said court, wherein Jennet Jones, otherwise Jenet Jones, and Thomas Poole and Mary, his wife, were plaintiffs, and Henry Nixon, Samuel Williams, John Stirling, the governor and company of the Bank of England, the honorable company of merchants of England trading to the East Indies, the

honorable company of merchants trading to the South Seas, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and Esther Hartley, out of the jurisdiction of the court, were defendants; and this deponent saith that he compared and examined the said annexed paper writing, marked A, with the said decree or decretal order so passed and entered as aforesaid; and this deponent further saith, that he was present and did see J. Fry, the deputy register of the said court, subscribe his name to the said paper writing marked A, and that the subscription "J. Fry, Dep. Rr. for Mr. Bedwell," written at the foot of the said paper writing is the proper handwriting of the said J. Fry. THOS. PETERS.

Sworn at the Mansion House, in the city of London, this 12th day of January, 1831, before me.

J. KEY, *Mayor*.

A.

VICE CHANCELLOR.

Saturday, the 17th day of July, in the first year of the reign of his majesty King William the Fourth, 1830. Between Jennet Jones, otherwise Jenet Jones, and Thomas Poole and Mary, his wife, plaintiffs;

Henry Nixon, Samuel Williams, John Stirling, the governor and company of the Bank of England, the honorable company of merchants of England trading to the East Indies, the honorable company of merchants trading to the South seas, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and Esther Hartley, out of the jurisdiction of the court, defendants. By original and amended bill and bill of revivor.

6s. a 6d.

This cause coming on this present day to be heard and debated before this court, in the presence of counsel learned for the plaintiffs and for all the defendants, except the defendant, Esther Hartley, upon debate of the matter and hearing, an order dated the 9th of August, 1825, and order dated 31st July, 1826, and the accountant general's certificate read, and what was alleged by the counsel for the plaintiffs and for the defendants, this court doth order, that the injunction awarded in the original cause of Aspden vs. Nixon, pursuant to an order made in the said cause, bearing date the 9th day of August, 1825, to restrain the defendants, Samuel Williams and John Stirling, from selling or transferring the four thousand pounds bank stock, ten thousand pounds three pounds per cent. consold. bank anns., six thousand five hundred pounds three pounds ten shillings per cent. reduced annuities, and six thousand pounds bank four pounds per cent. annuities, not assented to; the said six thousand five hundred pounds and six thousand pounds in the said injunction stated by mistake as twelve thousand five hundred pounds reduced three pounds ten shillings per cent. annuities; and three thousand five hundred pounds new

four per cent. anns.; and the said last named defendants to be restrained from selling or transferring the said three thousand pounds East India stock, and five thousand pounds South Sea stock; and that the said defendants, Samuel Williams and John Stirling, should be in like manner restrained from receiving any dividends due or to accrue due on the said bank annuities and stocks respectively, save and except the dividends then already due on the said East India and South Sea stocks; and that the said defendants, the governor and company of the Bank of England, should be also restrained from making, or permitting to be made, any transfer or sale of the said bank annuities and stocks, and from paying any dividends thereon; and that the said defendant, the East India company, should be in like manner restrained from making, or permitting to be made, any sale or transfer of the three thousand pounds East India stock; and that the said defendants, the South Sea company, should be in like manner restrained from making, or permitting to be made, any transfer or sale of the five thousand pounds South Sea stock; and that the said defendants, the East India company and the South Sea company, should be also in like manner restrained from paying any future dividends to accrue due upon the said East India stock and South Sea stock respectively, until the defendants should fully answer petitioners' bill, or this court make other order to the contrary, be dissolved. And it is ordered that the sum of two hundred and twenty-eight pounds one shilling and eleven pence, cash in bank, placed to the credit of the cause Aspden vs. Nixon, be paid to the defendant, Henry Nixon; and for the purposes aforesaid, the accountant general of this court is to draw on the bank, according to the form prescribed by the act of parliament, and the general rules and orders of this court in that case made and provided. This court doth order that the plaintiffs' bills do stand dismissed out of this court, with costs to be taxed by the master of this court in rotation.

Examined. J. FRY, *Dep. Rr.*
For Mr. BEDWELL.

To all whom these presents shall come: I, John Key, lord mayor of the city of London, do hereby certify, that on the day of the date hereof personally came and appeared before me, Thomas Peters, the deponent named in the affidavit hereunto annexed, being a person well known and worthy of good credit, and by solemn oath which the said deponent then took before me upon the holy evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true the several matters and things mentioned and contained in the said annexed affidavit.

In faith and testimony whereof I, the said lord mayor, have caused the seal of the office of mayoralty of the said city of London to be hereunto put and affixed, and the paper writing marked A, mentioned and referred to in and by the said affidavit, to be hereunto annexed. Dated in London, the twelfth day of of January, in the year of our Lord one thousand eight hundred and thirty-one. WILLIAMS.

[SEAL.]

PACKER
vs.
NIXON.

Exhibit.

Copy of Matthias Aspden's account of himself, under the alien bill, enclosed to the Rev. David Small, one of his majesty's justices of peace, for the county of Gloucester.

A persons that supposes he may come under the description of an alien in the alien bill, gives this account of himself:

His name is Matthias Aspden; age he believes forty-two; rank a gentleman bred and born, and heir to a good estate. His present support from the receipts of dividends on bank and other stock to the amount of eight hundred pounds and upward per annum, arising from his capital, and partial compensation for losses in America made by the commissioners to the amount of eleven hundred pound and upward. A merchant by profession, and engaged in trade before he was fifteen, (believing he was of age,) and required by act of parliament to give it up under the penalty; "a wealthy and respectable merchant before he was twenty." Born in Philadelphia, he believes in the house he lived in. Parents, Matthias and Rebecca Aspden; his father born in England in the last century. Bred a wool stapler, to which he served seven years' apprenticeship, near Halifax; and was afterwards, if he is not mistaken, on his return from America to England, complimented with the freedom of that town and the city of Newcastle-upon-Tyne. Went a freeman to America about the year 1718, and became a merchant in Philadelphia about the year 1726, and died there in the year 1765. His mother born in America, widow of Roger Hartley, and daughter of Philip and Rebecca Packer, (maiden name Jones,) the former born in England, the latter in North Wales, and went a child about nine years old with her father and mother, (Anabaptist, of a good family,) to Philadelphia, in the year 1683, then a wilderness, near which his mother died in 1773.

He himself came to England, soon after the revolt in the colonies, in December, 1776, under the circumstances of the case, as briefly stated in his memorial to the commissioners to be fully explained on his examination. Having sent all his vessels to England, (under the presumption the insurgents would be reduced, the ground he presumes on which it was required in conformity to the prohibitory act as stated therein, to wit, the brig Ranger, Benj. Dunn, master, to London, with a cargo on his account to sell for what she would bring. Voyage altered from Lisbon that she might not be sent back under any pretence whatever; and arrive too late to be sent out before the 10th of September, the time limitted by a resolve of the Congress for all vessels to sail and lay, until she became a prize under the prohibitory act. The ship Rebecca, Laton Albro, master, in July, to Cadiz, with a cargo on his account, where he had the neat proceeds in part of the two preceding cargoes

laying, with orders to his correspondent to cover the vessel as their property, if *the* could not obtain £1,700 sterling for her, and send her to the Bay of Honduras; from thence to proceed to Bristol with a cargo of mahogany and logwood, on his account, purchased with the effects; the captain takes with him a freight if one offers to be accepted in preference. On her arrival at Bristol his correspondent had orders, if £1,400 sterling could not be had for her, to unrig and lay her up, and discharge all the people but the captain. Unluckily at Bristol she was seized either from the transfer of property not being legally endorsed on the back of the register, or arriving too late apparently from this circumstance, American property was soon afterwards restored, and he conceives from the circumstances of the case and owners' intention. The ship Charming Nancy, George Corrie, master, to Bristol, in September, laden except a small matter on freight with a cargo on his account, with orders to his correspondent to send her on a voyage directed, preferring a freight if one offered, or back as the prohibitory act might or might not be repealed, not apprehending as she would arrive in time. She could not be cleared out after the 1st January with his name in the register, unless in England. Was attainted of high treason during the American war by act of assembly. Went to Philadelphia in June, 1785, in the packet via New York, to use his endeavors to obtain restitution of his rights and estate, if he could, under the recommendatory article of the treaty, and not being very cordially received among all parties, was led on advising with council to withdraw, safety not being a question in the courts he told him under the treaty, whatever he might been advised; and returned to England in the month of September following. The remainder of his estate being sold, a pardon was granted him by the executive council in 1786, soon after (if in their power in cases of attainder by act of assembly is not clear) a representation of this hazardous and unsuccessful undertaking was made to the commissioners soon after his return; having advised them of his going before he went, and desired to know, and repeated it from time to time, if *the* were satisfied with his claim, suspense being a torment were no cause is known or assigned, and delay frequently injurious.

In 1788 a note was sent to him that the commissioners had received some further information on his claim, and should take it again into consideration and make report; which *the* did, and a certificate granted him for the compensation mentioned on the close of the business, had the commissioners been pleased to tell him what this information was *the* wanted and had got on his return from America, or had assigned it as cause in their report, for not allowing his claim and allowed him a copy, he then could have judged what had been best to do; withdraw his claim and waste no more time in delay and attendance upon it: or be at the further risk and expense necessary to procure the information wanted, if to be had, which appears to him was their duty to do; as their silence laid him open to the imputation of having presented a fraudulent claim, his estate being seized and sold, and every way hurtful. Having a birth right in America, and doubtful he had no civil

right in England, he went again to America in 1791, and meeting with ill treatment in his half-brother's house, and elsewhere where he lodged, in Philadelphia. For what cause or from what quarter the attack came he cannot tell; but learning from an adjudged case his attainder was not legal, and believing this to be the cause of the commissioners disallowing his claim the period *the* did, if not altogether in their first report. He came again to England in the July packet, of 1792, and arrived in London in September, intending, if the privy council had granted copies of the reports made on his claim, to have brought an action against the commissioners as *the* might appear for delay of justice, and he may add, inadequate compensation; and which he believes the case would sustain and damages justly allowed him; but this obstacle being in the way, he gave it up and intended, for the reasons mentioned, to return to America, had not the war and fall of stocks prevented him.

When in town, since his last return to England, he has resided in the lodgings he was lately in at N. 5, Orange street, Red Lyon square, considering London as his home, from his property being invested in the funds, or more properly on loan to government and business on that account there.

MATTHIAS ASPDEN.

(Copy signed by the party.)
Clifton, near Bristol, July 18, 1798.

PACKER, vs. NIXON.

EXHIBIT.

FRA. HOPKINSON, *Clk. Circt. Ct.*

Jan'y 11, 1836.

18th March, 1828. Vesey. Turton for defendant, by Allen, fol. 17.

To the right honorable John Singleton, Baron Lyndhurst, of Lyndhurst, in the county of Southampton, Lord High [L. S.] Chancellor of Great Britain:

Humbly complaining show unto your lordship, your oratrixes and orator, Jenet Jones, otherwise Jenet Jones, of Old street, in the parish of St. Lukes, in the county of Middlesex, widow, and Thomas Poole, of Chequer court, Old street, in the same parish, and Mary, his wife, that John Aspden, deceased, on or about the 30th day of July, 1825, filed his bill in this honorable court against Henry Nixon, Samuel Williams, John Sterling, the governor and company of the bank of England, the honorable company of merchants trading to the East Indies, the honorable company of merchants trading to the South Seas; Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, praying that an account might be taken by and under the di-

rection of this honorable court of the personal estate and effects of Matthias Aspden, the testator in the said bill named, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or any other person or persons by his order, or for his use, or got in and possessed, or secured in any way, since the decease of the said testator; and that such personal estate and effects might be applied in payment of the said testator's funeral and testamentary expenses, debts and legacies, in a due course of administration; and that the residue of such personal estate and effects might be ascertained, and that the said complainant might be declared by this honorable court to be entitled, upon the true construction of the said will as heir of the said testator to such residue; and that such residue might be accordingly directed by this honorable court to be paid to the said complaint; and that in the mean time the said defendant, Henry Nixon, and the said defendants, Samuel Williams and John Sterling, might be restrained by the injunction of this honorable court from collecting and receiving any part of the personal estate and effects of the said testator in this country; and particularly from selling or transferring the sums of £4,000 bank stock, £10,000 £3 per cent. consolidated bank anns., £12,500 £3 10 per cent. reduced bank anns., and £3,500 new £4 per cent. reduced bank anns., standing in the books of the said governor and company of the bank of England in the name of the said testator; the sum of £3,000 stock standing in the books of the said East India company in the name of the said testator; and the sum of £5,000 stock standing in the books of the said South Sea company in the name of the said testator, and from receiving the dividends thereon respectively, and the moneys, securities, and effects then in the hands of the said defendants, Messrs. Hoare, as bankers of the said testator; and that the said defendants, the governor and company of the bank of England, and the said defendants, the East India company, and the said defendants, the South Sea company, might be respectively restrained from permitting any transfers of such respective sums to be made; and that also the said defendants, the governor and company of the bank of England, might be directed to transfer the said respective stock and annuities standing in the name of the said testator in their books; and also the dividends accrued thereon respectively, into the name of the accountant general of this honorable court in this cause; and also that proper directions might be given for the sale of the said stock respectively standing in the name of the said testator, and in the respective books of the East India company and of the South Sea company; and that the moneys arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the £3 per cent. consolidated bank annuities, in the name of the said accountant general in trust in this cause; and that the said defendants, Messrs. Hoare, might be restrained from paying and delivering the said moneys, securities, and effects of the said testator in their hands to the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling; and that the said defendants, Messrs. Hoare, might be

ordered to pay the said money of the said testator in their hands into court; and that the said defendants, Samuel Williams and John Sterling, might be restrained by the injunction of this honorable court from remitting any part of the personal estate and effects of the said testator in this country to the said defendant, Henry Nixon; and that some proper person might be appointed by this honorable court to receive and get in all other the outstanding personal estate and effects of the said testator; and your oratrixes and orator further show unto your lordship, that the said several defendants to the said bill appeared and put in their answers thereto, and that the said bill was, by virtue of an order made on or about the 28th day of May, 1827, amended, and Esther Hartley made a defendant thereto, but that no further proceedings have been had in the said suit, as by the said bill and other proceedings, reference being thereunto had, will more fully and at large appear; and your oratrixes and orator further show unto your lordships that the said plaintiff, John Aspden, afterwards, and on or about the 1st day of March, 1828, departed this life a widower and intestate, leaving your oratrixes his only children him surviving, who are his only next of kin and his co-heiresses; and that your oratrixes, on or about the 11th day of March, 1828, obtained letters of administration of the goods and chattels, debts and credits, of the said intestate, to be granted to them by and out of the prerogative court of the Archbishop of Canterbury, and by virtue thereof become and now are his personal representatives, and that they are entitled to all the benefits which the said intestate were entitled to under and by virtue of the last will of the said testator, Matthias Aspden; and your oratrixes and orator further show that the said suit and proceedings have become abated by the death of the said John Aspden, and that your oratrixes and orator are advised that they are entitled to have the said suit and proceedings reversed against the said defendants, and to be put in the same plight and condition as the same were in at the time of the abatement thereof; to the end, therefore, that the said suit and proceedings which so became abated as aforesaid may stand reversed, and be in the same plight and condition as the same were in at the time of the death of the said John Aspden, or that the said defendants may show good cause to the contrary: May it please your lordship, the premises considered, to grant unto your oratrixes and orator his majesty's most gracious writ or writs of subpœna, issuing out of and under the seal of this honorable court, to be directed to the said Henry Nixon, Esther Hartley, Samuel Williams, John Stirling, the governor and company of the bank of England, the East India company, the South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, thereby commanding them and every of them, at a certain day and under a certain pain therein to be limited, personally to be and appear before your lordship in this honorable court, and then and there to answer the premises, and show cause, if they can, why the said suit and all the proceedings therein should not stand reversed and be in the same plight and condition as they were in at the time of the decease of the said John Aspden, and

that the cause and proceedings may stand reversed; and the said Henry Nixon, Esther Hartley, Samuel Williams, John Stirling, the governor and company of the bank of England, the East India company, the South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, stand to, perform, and abide by, such order, direction, and decree herein as to your lordship shall seem meet; and your oratrixes and orator shall ever pray, &c.

S. F. MILFORD.

PACKER vs. NIXON.

EXHIBIT.

FRA. HOPKINSON, *Clk. Cirt. Ct.*

January 11, 1836.

IN THE EXCHEQUER.

Trinity term. 11*th Geo.* 4*th, and* 1*st Wm. the* 4*th.* 10*th Aug.* 1830.

To the right honorable Henry Goulbourn, chancellor and under treasurer of his majesty's court of exchequer, at Westminster, the right honorable Sir William Alexander, Knight, Lord Chief Baron of the same court, and the rest of the Barons there:

MIDDLESEX.

Humbly complaining show unto your honors your oratrix, Jennet, otherwise Jenet Jones, of Old street, in the parish of Saint Luke, in the county of Middlesex, widow, and Thomas Poole, of Hoxton, in the same county, yeoman, and Mary, his wife, debtors and accountants to his majesty, as by the records of this honorable court, on reference thereto and otherwise, it may appear, that Matthias Aspden, late of King street, Holborn, in the county of Middlex, deceased, was formerly a merchant in Philadelphia, in North America, but that he quitted that place when the war broke out between this country and America, in the year one thousand seven hundred and seventy-six, and came to and resided, and thenceforth became domiciled, in this country until the time of his death hereinafter mentioned; and although he went to America after the conclusion of the said war, and at one or two other times only, he went there only temporarily and to transact or settle his affairs; and he also went once or twice on the continent of Europe, and always returned to this country as to his home; and the said Matthias Aspden, during his residence in this country as the place of his domicil, invested large sums of money in the purchase of bank stock and of annuities in the funds of this country, and also in the funds of the East India and South Sea companies, and in the French funds; and that the said Matthias Aspden departed this life on the ninth day of August, one thousand eight hundred and twenty-four, being then resident in King street, Holborn, aforesaid, and domiciled as aforesaid in this country. And your oratrixes and orator further show unto your honors that the

said Matthias Aspden, in his lifetime, and at the time of making his will hereinafter mentioned, was possessed of very considerable personal property, and that he was in particular possessed of said considerable property in the English and American and French funds, and of various other kinds of personal estate and effects, to a very considerable amount in the whole; and that in his lifetime he duly made his last will and testament in writing, with several codicils thereto, all bearing date the sixth day of December, one thousand seven hundred and ninety-one, and which are in the words and figures following, viz: "These are to certify, that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and personal, to my heir-at-law, first paying all my just debts and funeral expenses, and the following legacies: first, to each of the children of my half-brother, Benjamin Hartley, deceased, that may be alive at my death, the sum of one hundred pounds to each, Pennsylvania currency; and to my half-sister Bersheba Zane, wife of Elnathan Zane, the sum of four hundred pounds, Pennsylvania currency, both the above living, or did live, near Haddonfield; and to my half-brother Roger Hartley, living at present in Lancaster county, the sum of three hundred pounds of the like currency. Witness my hand this 6th day of December, 1791, Philadelphia. Matthias Aspden. Least any question should arise about the legitimacy of my birth, that my estate, real and personal, should go to the party who would be my lawful heir in case there might arise no doubt on that head, it is firmly believed by from the best information, that my birth was after marriage. Philadelphia, December 6th, 1791. I do further give one hundred pounds currency to each of the children of my deceased half-sister, Ann Hinchman, that may be living at my death. December 6th, 1791, the last will of Matthias Aspden. I do hereby appoint my friends, Mr. George Roberts and Mr. Abram Liddon, with the president of the old bank at the time being, to be my executors to this my last will. Matthias Aspden. Note. My property in England is as follows: £12,500 in the 4 pr. ct. stock, £3,000 in the 5 pr. ct. stock, £1,800 in the 3 pr. ct. stock," as in and by the probate of the said will, when the same shall be produced to this court, reference thereto being had, will appear. And your oratrixes and orator further show unto your honors that the said testator died without having revoked or altered his said will and codicils, and without issue, he never having been married; and that the said George Roberts and Abram Liddon both died in the lifetime of the said testator; *at* that the president, *at that* the bank at Philadelphia at the time of the death of the said testator was Henry Nixon, esq. And the testator, by the expression in the last codicil to his said will of "the president of the old bank," meant the president of the bank at Philadelphia; and the said Henry Nixon, soon after the death of the said testator, viz., in the month of November, one thousand eight hundred and twenty-four, proved the said will and codicils in the proper ecclesiastical court at Philadelphia, and he has also proved the said will and codicils in the proper ecclesiastical court in this country, namely, in the preroga-

tive court of the Archbishop of Canterbury, and has obtained probate thereof from the said court, bearing date the twenty-seventh day of July, one thousand eight hundred and twenty-five, and has thereby become the legal personal representative of the said testator, and the said Henry Nixon has possessed himself of all the personal estate and effects of the said testator in America and elsewhere, except in this country, and which were much more than sufficient to pay all the funeral and testamentary expenses, debts, and legacies of the said testator, after payment whereof there is now remaining a very considerable surplus of the personal estate and effects of the said testator, possessed by the said Henry Nixon.

And your oratrixes and orator further show unto your honors that the said testator was not, at the time of his death, seized of or entitled to any real estate, but that he was, at the time of his death, possessed of (among other descriptions of property) the sums following, in the English funds, that is to say: Four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities, six thousand five hundred pounds three-and-an-half per cent. bank annuities, and three thousand five hundred pounds new four per cent. annuities; and also six thousand pounds four per cent. bank annuities, not assented to take three pounds ten shillings per cent. per annum in lieu thereof, in the manner provided by an act of Parliament passed in the fifth year of his late majesty, entitled an act for transferring several annuities of four per cent. per annum into annuities of three pounds ten shillings per annum; and such several sums of stock are still standing in the books of the governor and company of the Bank of England in the name of the said testator, with an arrear of dividends thereon respectively; and the said testator also was possessed of East India stock and South Sea stock to a considerable amount, that is to say, three thousand pounds East India stock and five thousand pounds South Sea stock; and that the said testator died also possessed of other personal estate and effects in England, of various descriptions, to a large amount in the whole, and had money in the hands of Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, of Fleet street, in the city of London, bankers, who also held certificates of inscriptions of stock in the French funds in the name of the said testator, and certificates or other documents of or relating to inscriptions of actions of the Bank of France in the name of the said testator, which inscriptions were to a very large amount respectively; and your oratrixes and orator further show unto your honors that the said testator, left John Aspden, since deceased, his heir-at-law, according to the law of England, in evidence whereof your oratrixes and orator show that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of both the said testator and the said John Aspden, and died many years ago, having had issue twelve children, the eldest of whom was John Aspden, who died and was buried at Saint Paul's, Deptford, in Kent, in the month of January, in the year one thousand seven hundred and fifty-four, leaving issue only one son, viz., Andrew Aspden, who died and was

also buried at Saint Paul's, Deptford, aforesaid, in the month of September, in the year one thousand seven hundred and seventy-one, leaving issue the said John Aspden, his only child and heir-at-law. And your oratrixes and orator further show unto your honors, that the name of the father of the said testator was Matthias Aspden, who was the third son of the said Thomas Aspden, the common ancestor; and that the said Matthias Aspden, the father, being resident in America, married there an American woman, whose christian name was Rebecca, who was the widow of one Roger Hartley, and had issue by her some time after the said marriage an only child, namely, the said testator; and the said Matthias Aspden, the father, died in or about the year one thousand seven hundred and sixty-five, in Philadelphia aforesaid, leaving the said testator his only child him surviving; so that upon the failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, the said John Aspden, your orator's late father, as the grandson and heir-at-law of the said John Aspden, who was the eldest brother of the said Matthias Aspden, the father of the said testator, became on the death of the said testator his heir-at-law, and as such heir of the said testator he became entitled, under the will of the said testator, to the residue of the personal estate and effects of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies. And your oratrixes and orator further show unto your honors, that the said Henry Nixon, although he has proved the will and codicils of the said testator in this country, always has been, and still is, resident at Philadelphia aforesaid, in North America; and he alleges that there are certain persons in America who claim to be the heirs-at-law and next of kin to the said testator, according to the laws of Pennsylvania, one of the United States of North America, within which the said city of Philadelphia is situated; for that, by the laws of the said State of Pennsylvania, the real and personal property of a person who dies intestate, leaving no father, mother, wife, or children, but leaving brothers and sisters of the whole and also of the half-blood, or the descendants of such brothers and sisters, are distributable as follows, that is to say, the brothers and sisters of the whole blood, and the descendants representing such of the brothers and sisters of the whole blood as are dead, inherit the real estate in fee simple as tenants in common; the descendants of those who are dead taking together the same share which their respective parents or ancestors would have taken if living; and the brothers and sisters as well of the whole as of the half-blood, and the descendants representing such of the said brothers and sisters as are dead, take the personal estate between them, (the descendants representing a deceased brother or sister taking the same share which their respective parents or ancestors would have taken if living;) or if there are no brothers and sisters of the whole blood or any descendants of such, then the brothers and sisters of the half-blood and their descendants take the personal estate between them, in the same manner, in exclusion of the other kindred of the whole blood, and also inherit the real estate in fee simple; and that the representation of the deceased brothers and sisters is not confined to their

children, but is extended to their most remote descendants, such descendants taking always the same share which their respective parents would have done if living. And your oratrixes and orator further show unto your honors, that they are advised that, under the will of the said testator, the residue of his estate, after the payment of his funeral and testamentary expenses and debts, and the legacies bequeathed by his said will, passed to the said John Aspden, your oratrixes' late father, as the heir-at-law of the said testator, according to the laws of England, and did not pass to the heirs-at-law of the said testator according to the laws of the said State of Pennsylvania, or to the next of kin of the said testator, either according to the laws of the said State or according to the laws of England; and that the said John Aspden, as the heir-at-law of the said testator, according to the laws of England, was, at the time of his death, well entitled to the residue of the said testator's estate; and the said John Aspden, being so entitled, departed this life on or about the eleventh day of March, one thousand eight hundred and twenty-eight, leaving your oratrixes his only children and next of kin surviving him, and that he died intestate; and that your oratrixes and orator have procured letters of administration on the personal estate and effects of the said John Aspden, their late father, to be granted to them by and out of the prerogative court of the Archbishop of Canterbury, and have thereby become his legal representatives, as by the said letters of administration, reference being had thereto when produced, will appear. And your oratrixes and orator further showeth unto your honors, that they have caused notice of their right under the will of the said testator, as the personal representative of the said John Aspden, to be given to the said Henry Nixon; and the said Henry Nixon well knows and believes, or has reason to believe, that the said John Aspden was, at the death of the said testator, his heir-at-law according to the laws of England; and that your oratrixes and orator are the personal representatives of the said John Aspden; and your oratrixes and orator, therefore, well hoped that the said Henry Nixon would have accounted with them for the personal estate and effects of the said testator, possessed by him, and for his application thereof, and would have transferred, or caused to be transferred, into their names the several sums of stock herein before mentioned belonging to the said testator. But now, so it is, may it please your honors, the said defendant, Henry Nixon, combining and confederating with the governor and company of the Bank of England, the East India company, and the South Sea company, and with various persons to your oratrixes and orator at present unknown, whose names when discovered they pray they may be at liberty to insert herein, with proper charges against them as parties defendant hereto, and contriving how to wrong and injure your oratrixes and orator in the premises, has refused to account with your oratrixes and orator for the personal estate and effects of the said testator; and, on the contrary, he threatens and intends forthwith to withdraw from this country the whole of the personal estate and effects of the said testator yet remaining here, and for that purpose to sell and transfer the said several sums

of four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities, three thousand five hundred pounds new four per cent. annuities, and six thousand five hundred pounds three and a-half per cent. annuities, respectively, standing in the name of the said testator in the books of the governor and company of the Bank of England; and the said Henry Nixon also threatens and intends to apply for and receive the sum of six thousand pounds, payable at the Bank of England, in respect of the sum of six thousand pounds four per cent. bank annuities, not assented to take three and a-half per cent. annuities in lieu thereof, pursuant to the act before mentioned in that behalf; and the said Henry Nixon also threatens and intends to sell out and transfer the sum of three thousand pounds East India stock standing in the name of the said testator in the books of the East India company, and the sum of five thousand pounds standing in the name of the said testator in the books of the South Sea company, and to possess himself of the certificates and other documents in the possession of the said Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, of or relating to the inscriptions in the name of the said testator of stock in the French funds, and of actions of the Bank of France. And the said defendants, the governor and company of the Bank of England, the East India company, and the South Sea company, intend to permit the several sales and transfers aforesaid to be made by the said Henry Nixon; and the said defendants, the governor and company of the Bank of England, intend to pay to the said Henry Nixon the sum of six thousand pounds herein before mentioned; and the said Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, intend to deliver over to him the certificates and other documents aforesaid in their possession, unless they, the said parties, shall be restrained from so doing by the injunction of this honorable court; and the said Henry Nixon alleges that he ought to be at liberty to sell and transfer the said several funds respectively, and to receive the said sum of six thousand, and to possess himself of the said certificates and other documents, in order that the same, or the produce thereof, may be accounted for by him to the persons claiming the residue of the said testator's personal estate, as his real and personal representatives in America; or at last, that, regard being had to such claims, he cannot account for, or deliver over, or transfer to your oratrixes and orator, or permit them to receive the several funds aforesaid, or the produce thereof, or the aforesaid sum of six thousand pounds, or the certificates and other documents aforesaid, or any part of the personal estate and effects of the said testator in this country, unless he shall be compelled so to do by the decree of this honorable court; but the said defendant does not claim for himself any beneficial right or interest in the residue of the said testator's estate.

And your oratrixes and orator charge, that the persons who claim to be entitled to the residue of the estate of the said testator, as his real or personal representatives in America, are numerous, and are unknown

to your oratrixes and orator, and they all reside in America, and out of the jurisdiction of this honorable court, though where, more particularly, your oratrixes and orator are ignorant. To the end, therefore, that the said defendants, Henry Nixon, Henry Hugh Hoare, Charles Hoare, and Hugh Meyrick Hoare, upon their oaths, and the said defendants, the governor and company of the Bank of England, the East India company, and the South Sea company, under their respective common seals, may full, true, perfect, and distinct answer make to all and singular the matters aforesaid, to the best and utmost of their knowledge, remembrance, information, and belief, severally and respectively, and that as fully and particularly as if the same were here repeated, and they severally and distinctly interrogate thereto; and more especially that they may in manner aforesaid answer and set forth, whether Matthias Aspden, deceased, the testator herein before named, was not formerly, and at or about what time, and during what period, a merchant in Philadelphia, in North America, and whether he did not quit that place at the time and upon the occasion hereinbefore in that behalf mentioned, or when else; and whether he did not then, or at any and what other time, come to reside in this country; and whether he did not thenceforth, or from some and what time, become domiciled in this country, and whether he did not continue to be so domiciled until the time of his death; and whether he at any time afterwards went to America, except temporarily, and to transact or settle his affairs, or for some and what particular purpose, and when and how often, and for what periods respectively, did the said testator afterwards visit and reside in America; and whether he did not once or twice, or how often, go on the continent of Europe, and whether he did not on such occasions always return to this country as to his home, or how otherwise; and whether the said testator did not, and whether or not during his residence in this country as the place of his domicil, and at or about what times respectively, invest several large sums of money, and what sums, from time to time in the purchase of bank stock and annuities in the funds of this country; and whether or not also in the funds of the East India and South Sea companies, and in the French funds; and whether the said testator did not depart this life on the ninth day of August, one thousand eight hundred and twenty-four, or at or about any and what other time, and whether he was not resident in King street, Holborn, aforesaid; and whether or not domiciled as aforesaid in this country; and whether the said testator being possessed of such property as hereinbefore in that behalf mentioned, did not duly make his last will and testament in writing, with several codicils thereto, all bearing date respectively the sixth day of September, one thousand seven hundred and ninety-one, or of any and what other date or dates respectively; and whether the said will and codicils are not respectively in the words and figures, or to the purport and effect, hereinbefore in that behalf mentioned and set forth, or to any and what other purport or effect; and whether the said testator did not die without having revoked or altered his said will and codicils; and whether or not without issue; and whether he

was ever, and when, and to whom married; and whether George Roberts and Abram Liddon, in the last codicil to his said will named, did not both die in the lifetime of the said testator; and whether the said defendant, Henry Nixon, was not the president of the bank at Philadelphia at the time of the death of the said testator; and whether the said testator, by the expression in the third codicil to his said will of "the president of the old bank," did not mean the president of the bank at Philadelphia; and whether the said defendant, Henry Nixon, did not soon after the death of the said testator, and at or about the time hereinbefore in that behalf mentioned, prove the said will and codicils in the proper ecclesiastical court at Philadelphia, and whether he has not also proved the same will and codicils in the prerogative court of the Archbishop of Canterbury, and whether he has not obtained probate thereof from the said court, bearing date the twenty-seventh day of July, one thousand eight hundred and twenty-five, or of any and what other date, and has not thereby become the legal personal representative of the said testator; and whether the said defendant, Henry Nixon, has not possessed himself of all the personal estate and effects of the said testator in America and elsewhere, except in this country, and of what particulars consisting, and of what amount and value respectively; and whether the same were not much, and how much, more than sufficient to pay all the funeral and testamentary expenses, debts, and legacies, of the said testator, and what has been the amount of such expenses, debts, and legacies, severally and respectively, and in the whole; and whether after such payment there is not remaining a very considerable or some surplus of the said personal estate and effects so possessed by the said defendant, and to what amount; and whether he was not at the time of his death possessed of (amongst other descriptions of property) such several sums of stock in the English funds as herein before in that behalf particularly mentioned; and whether such several sums of stock are not still standing in the books of the governor and company of the bank of England in the name of the said testator; and whether there is not some and what arrear of dividends thereon respectively; and whether the said testator was not also possessed of such several sums of East India stock and South Sea stocks as herein before in that behalf mentioned, or how otherwise; and whether the said testator did not also die possessed of other personal estate and effects in England of various descriptions to a large, or some and what, amount in the whole; and whether the said testator did not leave John Aspden herein before named, your oratrixes' late father, or if not, then whom else, his heir-at-law according to the law of England; and whether Thomas Aspden hereinbefore named, of Simondstone, in Lancashire, was not the common ancestor of both the said testator and the said John Aspden, did not die many years ago; and whether he had not issue twelve children; and whether the eldest of such children was not John Aspden; and whether the said John Aspden did not die and was not buried at Saint Paul's, Deptford, in Kent, in January, in the year one thousand seven hundred and fifty-four; and whether he did not leave issue only

one son, viz., Andrew Aspden; and whether the said Andrew Aspden did not die and was also buried at Saint Paul's, Deptford, aforesaid, in September, in the year one thousand seven hundred and seventy-one; and whether he did not leave issue the said John Aspden, your oratrixes' late father, his only child and heir-at-law; and whether the name of the father of the said testator was not Matthias Aspden; and whether the said Matthias Aspden, the father, was not the third son of the said Thomas Aspden, the common ancestor; and whether he did not, when resident in America, marry there an American woman whose christian name was Rebecca, and who was the widow of one Roger Hartley; and whether he had not issue by her some time after the said marriage, an only child, namely the said testator; and whether the said Matthias Aspden, the father, did not die in or about the year one thousand seven hundred and sixty-five, in Philadelphia aforesaid; and whether he did not leave the said testator, his only child, surviving him; and whether in manner aforesaid, upon the failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, the said John Aspden, your oratrixes' late father, did not, as the grandson and heir-at-law of the said John Aspden, who was the eldest brother of the said Matthias Aspden, the father of the said testator, become on the death of the said testator his heir-at-law; and whether as such heir of the said testator he did not become entitled, under the will of the said testator, to the residue of the personal estate and effects of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies, or if not, why not; and whether the said defendant, although he has proved the will and codicils of the said testator in this country, has not always been, and is not still, resident at Philadelphia aforesaid, in North America; and whether the said defendant does or not allege that there are, and whether there are or not in fact any and what, persons in America who claim to be the heirs-at-law and next of kin of the said testator, according to the laws of the State of Pennsylvania aforesaid, within which the said city of Philadelphia is situated; and whether the laws of the said State as to succession to real and personal estate are or not such as hereinbefore in that behalf mentioned; and whether under the will of the said testator the residue of the estate, after payment of his funeral and testamentary expenses and debts, and the legacies bequeathed by his said will, did not pass to the said John Aspden, your oratrixes' late father, as the heir-at-law of the said testator, according to the laws of England; and whether the said John Aspden, as the heir-at-law of the said testator according to the laws of England, was not at the time of his death well entitled to the residue of the said testator's estate; and whether the said John Aspden, being so entitled, did not depart this life at or about the time hereinbefore in that behalf mentioned, or when else; and whether he did not leave your oratrixes his only children and next of kin surviving him; and whether he did not die intestate; and whether your oratrixes and orator have not procured letters of administration of the personal estate and effects of the said John Aspden, their late father,

to be granted to them by and out of the prerogative court of the Archbishop of Canterbury, and have not thereby become his legal representatives; and whether your oratrixes and orator have not caused notice of their right under the will of the said testator, as the personal representatives of the said John Aspden, to be given to the said defendant; and whether the said defendant does not well know or believe, or has not reason to believe, that the said John Aspden was, at the death of the said testator, his heir-at-law according to the laws of England; and whether or not that your oratrixes and orator are the personal representatives of the said John Aspden; and whether the said defendant, Henry Nixon, ought not to have accounted with your oratrixes and orator for the personal estate and effects of the said testator, possessed and received by him, and for his application thereof; and whether he ought not to have transferred, or caused to be transferred, into their names the several sums of stock hereinbefore mentioned, belonging to the said testator; and whether the said defendant has not, and for what reason, refused to account with your oratrixes and orator for the personal estate and effects of the said testator; and whether he has not threatened, and whether he does not intend forthwith, to withdraw from this country the whole of the personal estate and effects of the said testator yet remaining here; and whether or not for that purpose to sell and transfer the said several sums of four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities, three thousand five hundred pounds new four per cent. annuities, and six thousand five hundred pounds three and a half per cent. annuities, respectively, standing in the name of the said testator in the books of the governor and company of the Bank of England; and whether the said defendant has not also threatened, and whether he does not intend to apply for and receive the sum of six thousand pounds payable at the Bank of England, in respect of the sum of six thousand pounds four per cent. bank annuities, not assented to take three and a half per cent. annuities in lieu thereof, pursuant to the act before mentioned in that behalf; and whether he has not also threatened, and whether he does not intend to sell out and transfer the sum of three thousand pounds East India stock standing in the name of the said testator in the books of the East India company, and the sum of five thousand pounds standing in the name of the said testator in the books of the South Sea company. And whether the said defendants, the governor and company of the Bank of England, the East India company, and the South Sea company, do not intend to permit the several sales and transfers aforesaid to be made by the said defendant, Henry Nixon, unless they shall be restrained from so doing by the injunction of this honorable court; and whether the said defendants, the governor and company of the Bank of England, do not intend to pay to the said defendant, Henry Nixon, the sum of six thousand pounds, hereinbefore mentioned, unless they shall be restrained as aforesaid. And whether the said defendant, Henry Nixon, does or not, for any and what reason, allege that he ought to be at liberty to sell and transfer the said several funds respectively, and to re-

ceive the said sum of six thousand pounds, in order that the same may be accounted for by him to the persons claiming the residue of the said testator's personal estate as his real and personal representatives in America. And whether he does or not allege that, regard being had to such claims, he cannot account for, or deliver over or transfer, to your oratrixes and orator, or permit them to receive, the several sums aforesaid, or the produce thereof, or the aforesaid sum of six thousand pounds, or any part of the personal estate and effects of the said testator in this country, unless he shall be compelled to do so by the decree of this honorable court. And whether the persons who claim to be entitled to the residue of the estate of the said testator as his real or personal representatives in America are not numerous, and how many in number, and what are their respective names and descriptions; and whether they are not unknown to your oratrixes and orator; and whether they do not all reside in America, and out of the jurisdiction of this honorable court; and where, in particular, is each of such several persons resident. And that the said defendants may answer the premises, and that the said defendant, Henry Nixon, may set forth an account of the personal estate and effects of the said testator, possessed by him, or by any person or persons by his order, or for his use, and how, and in what manner the same has been disposed of; and that an account may be taken, by and under the direction of this honorable court, of the personal estate and effects of the said testator, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or of any other person or persons by his order, or for his use; and that such personal estate and effects may be applied, so far as the same has not hitherto been done, in payment of the said testator's funeral and testamentary expenses, debts, and legacies, in a due course of administration; and that the residue of such personal estate and effects may be ascertained. And that the said John Aspden, deceased, your oratrixes' late father, may be declared by this court to have been entitled, under the will of the said testator, as heir-at-law of the said testator according to the law of England, to such residue; and that such residue may be directed by this court to be paid and transferred to your oratrixes and orator as the personal representatives of the said John Aspden; and that in the mean time the said defendant, Henry Nixon, may be restrained by the injunction of this honorable court from collecting and receiving any part of the personal estate and effects of the said testator in this country, and particularly from selling or transferring the said sums of four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities, six thousand five hundred pounds reduced three and a half per cent. bank annuities, and three thousand five hundred pounds new four per cent. annuities, standing in the books of the governor and company of the Bank of England in the name of the said testator; and from selling, transferring, or receiving the said sum of six thousand pounds four per cent. annuities (not assented to take three pounds ten shillings per cent. per annum in lieu thereof, in the manner and at the times required by the said act

of the fifth year of his late majesty's reign,) also standing in the books of the said governor and company of the Bank of England in the name of the said testator; and from selling or transferring the said sum of three thousand pounds stock standing in the books of the said East India company in the name of the said testator, and the said sum of five thousand pounds stock standing in the books of the said South Sea company in the name of the said testator, and from receiving the dividends or interest upon any of the several stocks or funds aforesaid; and that the said defendants, the governor and company of the Bank of England, and the said defendants, the East India company, and the said defendants, the South Sea company, may be respectively restrained from permitting any transfers of such respective sums to be made; and that the said defendants, the governor and company of the Bank of England, may be directed to transfer the said respective stock now standing in the name of the said testator in the said books, and all dividends accrued thereon respectively, into the name of the accountant general of this honorable court, in trust in this cause, and to pay into the bank to the credit of the accountant general in this cause the sum of six thousand pounds, payable in respect of the same sum of four per cent. annuities now standing in the name of the said testator, not assented as aforesaid; and that proper directions may be given for the sale of the said stock, respectively, standing in the name of the said testator in the respective books of the East India company, and of the South Sea company; and that the moneys arising from such sale may, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the three per cent. consolidated bank annuities in the name of the accountant general, in trust in this cause; and that some proper person may be appointed by this honorable court to receive and get in all other the outstanding personal estate and effects of the said testator; and that your orator and oratrixes may have such further or such other relief in the premises as to your honors shall seem meet, and the nature and circumstances of the case may require. May it please your honors, the premises considered, to grant unto your orators, not only his majesty's most gracious writ of injunction, issuing out of and under the seal of this honorable court, to restrain the said defendant, Henry Nixon, from selling and transferring the said sums of four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities; six thousand five hundred pounds three and a half per cent. bank annuities, and three thousand five hundred pounds new four per cent. annuities; and from selling, transferring, or receiving six thousand pounds four per cent. annuities (not assented to take three pounds ten shillings per cent. per annum in lieu thereof) or any part thereof; and from selling or transferring the sum of three thousand pounds stock standing in the books of the said East India company in the name of the said testator, and the said sum of five thousand pounds stock standing in the books of the said South Sea company in the name of the said testator; and from

receiving the dividends or interest upon any of the several stocks or funds aforesaid; and from possessing himself of the certificates and other documents in the possession of the said defendants, Henry Hugh Hoare, Charles Hoare, and Henry Meyrick Hoare, of or relating to the inscriptions in the name of the said testator of stock in the French funds, or of actions of the Bank of France; and also to restrain the said governor and company of the Bank of England, and the said East India company, and the said South Sea company, from permitting any such sales or transfers to be made; and that the said defendants, Henry Hugh Hoare, Charles Hoare, and Henry Meyrick Hoare, may be restrained by the like injunction from parting with the certificates and other documents aforesaid; but also his majesty's most gracious writ of distringas for the appearance of the said defendants, the governor and company of the Bank of England, the East India company, and the South Sea company, in this honorable court; and also his majesty's most gracious writ or writs of subpœna to be directed to the said defendants, Henry Nixon, Henry Hugh Hoare, Charles Hoare, and Henry Meyrick Hoare, and the rest of their confederates when discovered, thereby commanding them, at a certain day and under a certain pain therein to be limited, personally to be and appear before your honors in this honorable court, and then and there to answer all and singular the premises, to stand to, perform, and abide such order, direction, and decree therein as to your honors shall seem meet; and your orators shall ever pray, &c.

EDWARD WILBRAHAM.

EXHIBIT REFERRED TO IN MR. NIXON'S ANSWER.

Henry Nixon, executor, in account with estate of Matthias Aspden.

DR.

1833.			
Dec. 28.	The executor charges himself with the balance of account rendered and filed in the office of the register of wills - -		$410,627 65
1834.			
Feb. 1.	Cash received for interest on Pennsylvania State five per cent. stock - - - -	$3,350	
	Interest on city of Philadelphia five per cent. loan- - -	125 00	
	Dividend on 300 shares Bank of the United States - - -	1,050 00	
	Ditto on 20 shares ditto	70 00	
5.	Interest on notes discounted on collateral security - -	275 00	
8.	Ditto ditto ditto	1,198 92	

July	8.	Interest on city of Philadelphia five per cent. loan - -	$125 00
	16.	Ditto on Union Canal loan -	30 00
	18.	Dividend on 300 shares Bank of the United States - - -	1,050 00
		Ditto on 20 ditto - - -	70 00
	23.	Ditto on Girard bank stock -	75 00
Aug.	1.	Interest on Pennsylvania State five per cent. stock - -	3,350 00
	8.	Ditto on notes discounted on collateral security - - -	1,213 62
Oct.	1.	Final dividend from old Bank of the United States - -	20 50
	16.	Interest on Union Canal loan -	30 00
		Ditto on notes discounted on collateral security - - -	3,453 08
1835.			
Jan.	2.	Interest on city of Philadelphia five per cent. loan - -	125 00
	15.	Dividend on 300 shares of Bank of the United States - -	1,050 00
		Ditto on 20 shares ditto - -	70 00
	16.	Ditto on Union Canal loan -	30 00
Feb.	19.	Interest on notes discounted on collateral security - - -	5,132 47
		Interest on Pennsylvania State five per cent. stock - -	6,267 13
April	16.	Interest on Union Canal loan -	30 00
		Ditto on city of Philadelphia five per cent. stock - -	125 00
		Ditto on notes discounted on collateral security - - -	1,605 16
July	16.	Back interest due from Union Canal company for interest on loan due July and October, 1833, with interest (scrip) -	85 20
		Interest on notes discounted on collateral security - -	5,435 75
		Interest on Union Canal loan -	30 00
	17.	Dividend on 300 shares of Bank of the United States - -	1,050 00
		Ditto on 20 shares ditto - -	70 00
	18.	Ditto on Girard bank stock -	100 00
Aug.	1.	Interest on notes discounted on collateral security - -	1,099 60
		Ditto on bonds and mortgages -	1,066 67
		Ditto on Pennsylvania State five per cent. stock - -	6,850 00

	Dividend on Girard bank stock received Nov. 18th, 1834, and omitted - - -	$100 00	45,808 10
			$456,435 75

Cr.

1833.	The executor claims allowance for the following sums paid by him:		
1834.			
Jan. 10.	Cash paid F. Hopkinson, esq., clerk of district court -	$75 59	
Feb. 1.	Lydia R. Bailey, for printing documents per order of the court - - -	46 10	
May 24.	B. Tilghman, esqr's account -	75 87	
July 10.	F. Hopkinson, esq., clerk of the district court - -	121 37	
1835.			
Feb. 1.	Advance and brokerage on one hundred and forty thousand dollars invested in Pennsylvania State five per cent. stock, as per bill - - -	-	14,523 23
June 16.	Paid B. Tilghman, esq. -	1 75	
	William T. Carroll, for expenses of appeal to Supreme Court at Washington - - -	230 51	
	H. Nixon's expenses to Washington to attend the Supreme Court - - -	80 00	
			631 19
	Commission for receiving interest and dividends, $45,808 10, a 2½ p. ct. - - -	1,145 20	
	Commission on investing one hundred and forty thousand dollars in Pennsylvania State five per cent. stock — cost $154,523 23, a 2½ per cent.	3,863 07	5,008 27
Aug. 1.	Balance in hands of executor -		436,273 06
			$456,435 75

Schedule.

Pennsylvania State 5 per cent. stock—140,000 Ditto ditto ditto 134,000	at par	$274,000	00
Bills receivable on collateral security		72,574	09
Stock in Bank of the United States, 320 shares		32,000	00
Stock in Girard Bank, 50 shares		3,007	50
City of Philadelphia 5 per cent. stock		5,000	00
Union Canal loan		2,000	00
H. J. Williams' mortgage		12,000	00
J. M'Allister's ditto		16,843	75
Charles Shippen's ditto		5,000	00
J. Hay's ditto		3,905	00
Cash in bank		9,942	72
		$436,273	06

Points of disagreement of the Court.

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, esq., a citizen of the State of Pennsylvania, executor of the testament and last will of Matthias Aspden, esquire, late a citizen of the same State.

In the circuit court of the United States for the district of Pennsylvania, in the third circuit, of April session, 1828, No. 1. In Equity.

1836. January 6th. Upon the hearing, the following questions occurred, upon which the opinions of the judges were opposed:

1st. Whether it is necessary that an affidavit be made to the pleas in bar to the petition of John A. Brown, or to any part thereof, and if so, to what part?

2d. Whether the rule moved for by Mr. Ingersoll and Mr. Sergeant on the 14th day of November, 1835, in the following words: "Mr. Sergeant, for John Aspden, of Lancashire, moves for a rule on Mrs. Poole and Mrs. Jones, and on John A. Brown, administrator of John Aspden, of London, to show cause why they should not be required to elect on which petition or bill they will proceed, and to abide by the one elected and abandon the other." Mr. J. R. Ingersoll, for the executor of Mr. Nixon, makes the same motion as Mr. Sergeant—ought to be granted or not?

And the said judges being so opposed in opinion upon the questions aforesaid, the same were then and there, at the request of Mr. Ingersoll, counsel for Henry Nixon, and Mr. Sergeant, counsel for John Aspden, of Lancashire, stated under the direction of the judges, and ordered to be certified under the seal of the court, to the Supreme Court at their next session to be held thereafter, to be finally decided by the said Supreme Court.

UNITED STATES, *district of Pennsylvania, sct.*

I certify the foregoing to be a true and faithful record of certain proceedings of the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, including the questions on which the judges of that court were divided in opinion in a certain cause in equity therein pending, wherein Samuel Packer is complainant, and Henry Nixon, executor of Matthias Aspden, deceased, defendant, of April session, 1828, No. 1.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court, at Philadelphia, this eleventh [SEAL.] day of January, A. D. 1836, and in the sixtieth year of the independence of the said United States.

FR. HOPKINSON,
Clerk circuit court.

Mandate of the Supreme Court, U. S.

Afterwards, to wit, on the twenty-first day of March, and year last aforesaid, the mandate of the Supreme Court of the United States is presented, read, and filed; which mandate is in the words and of the tenor following, to wit:

No. 92.

Supreme Court of the United States, January term, 1836.

SAMUEL PACKER and others, complainants,
vs.
HENRY NIXON, executor of Matthias Aspden, deceased.

On a certificate of division in opinion between the judges of the circuit court of the United States, for the district of Pennsylvania.

This cause came on to be heard on the transcript of the record from the circuit court of the United States, for the district of Pennsylvania, and on the certificate of division in opinion between the judges of the said circuit court, upon the following questions, viz:

"1st. Whether it is necessary that an affidavit be made to the pleas in bar to the petition of John A. Brown, or to any part thereof, and if so, to what part?

"2d. Whether the rule moved for by Mr. Ingersoll and Mr. Sergeant, on the fourteenth day of November, 1835, in the following words: 'Mr. Sergeant, for John Aspden, of Lancashire, moves for a rule on Mrs. Poole and Mrs. Jones, and on John A. Brown, administrator of John Aspden, of London, to show cause why they should not be required to elect on which petition or bill they will proceed, and to abide by the one elected and abandon the other,' (Mr. J. R. Ingersoll for the executor, Mr. Nixon, makes the same motion as Mr. Sergeant,) ought to be granted or not?"

And those questions were argued by counsel. On consideration

whereof, it is the opinion of this court, that neither of these questions is of such a nature as are contemplated to be certified to this court under the act of the 29th of April, 1802, ch. 32; that they are questions respecting the practice of the court in equity causes, and depend upon the exercise of the sound discretion of the court in the application of the general rules which regulate the course of equity proceedings to the circumstances of each particular case, and therefore this court have no jurisdiction to answer the same. But it is to be understood that in the present case this general discretion is subject to the former order of this court in regard to the making of parties, and other proceedings contained in the mandate, when the cause was remanded at the last January term of this court. It is therefore ordered and adjudged, that this opinion be certified to the said circuit court, and that the cause be remanded for further proceedings; and the same is hereby certified and remanded accordingly.

I, William Thomas Carroll, clerk of the Supreme Court of the United States, do hereby certify, that the above and foregoing is a true copy of the decision and order of said Supreme Court, made in said cause at January term, eighteen hundred and thirty-six. Extracted from the minutes of said Supreme Court.

In testimony whereof I hereunto subscribe my name, and affix the seal of said Supreme Court, at the city of Washington, this seventeenth day of March, in the year of our Lord one thousand eight hundred and thirty-six.

[Seal of the Supreme Court of the U. S.]

WM. THOS. CARROLL,
Clerk of the Supreme Court of the U. S.

Reference to Master.

Afterwards, to wit, on the twenty-third day of May, in the year last aforesaid, it is ordered, that it be referred to the master to examine witnesses and take evidence touching the claims and rights of such persons as have been admitted parties to this cause, since the rendition of the mandate of the Supreme Court, in this case, to the fund in controversy therein, (excepting those to whose claims thereto pleas in bar have been or may be filed,) or such persons who may hereafter become parties to this cause. Also to examine any witnesses, or to take any evidence which may be offered by any of the parties to the cause, (subject to legal exceptions,) touching the domicil of the testator, Matthias Aspden, at the time of making his will, at the time of his death, or the intermediate period.

It is also ordered, that commissions issue pursuant to the rules of court, and that any party to the cause be at liberty to file interrogatories touching the domicil of the testator. Also, that any new parties, excepting as aforesaid, have leave to file interrogatories touching their claim and right to the fund in controversy.

Replication of Elizabeth Hinchman and others.

The replication of Elizabeth Hinchman, of the Commonwealth of Pennsylvania, widow of John Hinchman; of Joseph Heritage and Catherine, his wife, late Hinchman, citizens of the said commonwealth; of Joseph White and Hannah, his wife, late Hannah Hinchman, citizens of the said commonwealth; and of Benjamin Thoms and Rebecca, his wife, late Hinchman, citizens of the Commonwealth of New Jersey, petitioners and claimants, to the answer of Henry Nixon, defendant.

These repliants, saving and reserving unto themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto, say, that they will aver and prove their said petition to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto, by the said repliants; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said petition they have already prayed.

P. M'CALL, *for Repliants.*

May 20, 1836.

[Filed 2 June, 1836.]

Decree as to the sufficiency of the pleas in bar, and order on petitioners to reply; and that a commission issue to London to take testimony, &c.

In the matter of the pleas in bar to the petitions of Jennett Jones and Mary Poole, daughters of John Aspden, late of London, deceased, and of John A. Brown, administrator of the said John Aspden:

The court do adjudge and decree, that said pleas in bar are sufficient in law to bar the claims of the aforesaid petitioners, reserving to themselves, nevertheless, the right of ordering, adjudging, or decreeing otherwise, as shall hereafter appear to them to appertain to justice and equity; reserving also, to the aforesaid petitioners, liberty to move for a re-hearing on the said pleas, on the return of the commission hereafter directed. The court doth order that the aforesaid petitioners reply to the said pleas generally or specially, with leave of the court on special matter shewn, which replication shall be without prejudice, and when put in and issue taken thereon by the defendant, Nixon, which joining of issue shall also be without prejudice.

It is further ordered, that a commission issue to London, to take testimony touching the several matters of the said pleas on behalf of said defendant.

That said defendant be directed *be directed* to file such interrogatories as may be furnished to him by any of the parties or petitioners in

the cases touching the matters of the said pleas, excepting the petitioners before named, but they to have leave to file cross interrogatories on any matter to which any interrogatories relate, or interrogatories as to any matter in special replication.

Each party, or petitioner, reserves all objections to the competency or relevancy of any interrogatory, the answer thereto, or any papers appended to such commission.

The court reserves the right of making such order in the premises, (to be entered nunc pro tunc,) at the next term, as shall appear to them ought to be done, according to the law and course of equity therein.

The domicil of testator, or the relation between him and any of the parties or petitioners, is not a matter in issue on said pleas.

Replication of John A. Brown, administrator, &c., to the pleas in bar.

Afterwards, to wit, on the first day of March, A. D. 1851, the replications of John A. Brown, administrator of John Aspden, of Old street, London, are presented by his solicitor aforesaid; which replications, being read and filed, are in the words and of the tenor following, to wit:

In the circuit court of the United States, for the third circuit.

PACKER vs. NIXON. } April ses., 1828. In equity.

The replication of John A. Brown, administrator to the estate of John Aspden, late of Old street, London, deceased, one of the complainants to the plea of Henry Nixon, executor of the last will and testament of Matthias Aspden, deceased, defendant.

This repliant, saving and reserving to himself all and all manner of advantage and exception to the manifold insufficiencies of the said plea, (and in accordance with the order of the said court, made on the day of January last, and by leave thereof, without prejudice to the said repliant,) for and by way of replication saith, that his original bill or petition, exhibited against the said Henry Nixon, the defendant, and all and every the matters therein contained, are true, certain, and sufficient in law to be answered unto; and that the plea of the said defendant is untrue, uncertain, and insufficient in the law to be replied unto, by this repliant.

Save and except only that this repliant admits, that on or about the thirtieth day of July, A. D. eighteen hundred and twenty-five, a bill was filed in the high court of chancery, in that part of the united kingdom of Great Britain and Ireland called England, wherein John Aspden, then of the city of London, since deceased, was complainant, and the said Henry Nixon, executor of the will and codicils of Matthias Aspden, deceased, Samuel Williams, John Sterling, and others, were defendants, the said Henry being then, and at all times thereafter, resident in, and a citizen of, the United States of America, and out of the jurisdiction of the said court; in which said bill of com-

plaint it was, among other things, stated that the said Matthias Aspden died in the city of London, possessed of considerable property in the English, French, and American funds, and other personal estate; and also, after setting forth the contents of the said will, and the three codicils thereof, of the said Matthias Aspden, that the said testator departed this life without issue, and without any brother or sister of the whole blood, him surviving, but leaving half-brothers and sisters, and descendants of half-brothers and sisters, on the mother's side, and descendants of a half-sister on the father's side, but which half-sister was illegitimate, him surviving. And also that, at the time of the death of the said testator, the said Henry Nixon was president of the old bank at Philadelphia; that he proved the said will and codicils in the proper office at Philadelphia, and also in the prerogative court of Canterbury, in England, and that the said testator left John Aspden, the complainant, his heir-at-law. And it was further in the said bill of complaint stated, that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of the said testator and the said John Aspden, the complainant, and that Matthias Aspden, the father of the testator, was the third son of the said Thomas Aspden, the common ancestor, who had twelve children; and that the said Matthias Aspden, the father, being resident in America, married there an American woman, and that the said Matthias Aspden had issue by her, after said marriage, an only child, the said testator; and that the said Matthias Aspden, the father, died in or about the year seventeen hundred [and] sixty-five, in Philadelphia, leaving the testator his only lawful issue him surviving; and further, among other things, that there were certain persons in America who claimed to be the heirs-at-law and next of kin of the testator, according to the laws of Pennsylvania, and as such entitled to his whole estate; (and) it was prayed by and in the said bill of complaint, that an account might be taken of the personal estate in England, and the residue ascertained, and that the said complainant might be declared by the said court to be entitled, upon the true construction of the said will and codicils, as the heir-at-law of the testator, to such residue; and, in the mean time, that the said defendant, Henry Nixon, and Samuel Williams, and John Sterling, the constituted attorneys of the said Henry Nixon, also defendants, might be restrained, by injunction, from receiving any part of the personal estate of the said testator in England, and particularly from selling or transferring several stocks and securities in the said bill of complaint particularly mentioned and set forth, and from receiving, transferring, or disposing of certain moneys and effects in the hands and possession of certain other persons, also named as defendants in the said bill of complaint.

And this repliant further answering saith, that he admits an injunction was issued, pursuant to the prayer of the above recited bill of complaint, and that the said Henry Nixon, being still without the jurisdiction of the said court, caused his answer to the said bill of complaint to be filed in the said court of chancery, on or about the twentieth day of July, anno domini eighteen hundred and twenty-six, wherein, among

other things, he stated, that he did not know, and was unable to say, from his belief or otherwise, whether said testator left said John Aspden, the complainant, his heir-at-law, or whether Thomas Aspden, of Simondstone, was the common ancestor of the testator and the said complainant. And the said defendant, in his said answer, also, among other things, stated he believed it to be true, that the name of the father of the said testator was Matthias Aspden, and that the said Matthias Aspden, the father, was resident in America, and while there married Rebecca Hartley, a native of America, who was the widow of Roger Hartley, and the daughter of Philip and Rebecca Packer, both residents of North America; and that Matthias, the father, had issue by her, after his marriage as aforesaid, an only child, the said testator. And said defendant stated, in his said answer, that he had heard mentioned that the said Matthias Aspden married the said Rebecca Hartley while she was pregnant with the testator, and he believed the said Rebecca Hartley had several children by her former husband, Roger Hartley, none of whom were then living, but some of them had left children who were then in full life. And the said defendant further stated that he believed the said Matthias Aspden, the testator's father, had a former wife, named Mary Watson, the daughter of Jonathan Watson, of Cleviger, in Lancashire, by whom he had issue a daughter, named Mary, who intermarried with Henry Harrison, of Philadelphia, who is deceased, leaving several children, one of whom, named George Harrison, was then living in the city of Philadelphia. And that there were many persons in the United States of America who claimed to be next of kin to the said testator, and as such entitled to the said personal estate of the said testator under his said will and codicils.

And the said defendant further stated, in his said answer, that he intended to apply the personal estate of the said testator in such manner as should be determined by a court of competent jurisdiction in the said United States of America.

And this repliant further saith, that, on or about the month of July, in the year eighteen hundred and twenty-seven, an amended bill was filed by the said John Aspden; and that the said John Aspden died on or about the twenty-second day of February, A. D. eighteen hundred and twenty-eight; whereupon the said suit became abated; and that, on or about the eighteenth day of March, A. D. eighteen hundred and twenty-eight, Jannet Jones, and Thomas Poole and Mary, his wife, administrator and administratrixes of the estate of the said John Aspden, of London, deceased, filed their bill of revivor in the said court of chancery against the said defendants. The said Jennet and Mary having first obtained letters of administration from the said prerogative court of Canterbury to the estate of the said John Aspden, deceased.

And the said Henry Nixon, being out of the jurisdiction of the said court, put in his answer to the said amended bill, stating therein as he had before stated in his answer to the said original bill of the said John Aspden, deceased.

And this repliant further saith, that the said John Aspden, of London, had been for a long time before his death in a state of mental imbecility, and in great poverty, and at his decease left his two daughters, the said Jennet Jones and Mary Poole, and Thomas Poole, the husband of the said Mary, all in extreme poverty, and utterly unable, from their own resources or from the estate of the said John Aspden, to provide or procure the means for prosecuting and carrying on the said suit in the said court of chancery. And also that Thomas Gregson, who had been the attorney of the said John Aspden in his lifetime, and was, after his death, the attorney of the said Jennet and Mary, and Thomas, having been for a long time previous in infirm health, also departed this life some time in the year eighteen hundred and thirty.

And this repliant further saith, that, in consequence of the poverty and imbecility of the said John Aspden during his life, and the poverty of his two daughters, the said Jennet and Mary, and of the said Thomas Poole, the husband of the said Mary, and of the continued illness and death of the said Thomas Gregson, their said attorney, they, the said Jennet, Thomas, and Mary, were utterly unable to prosecute and carry on the said suit in the said court of chancery, and the same was not so prosecuted and carried on, and no evidence whatever was taken, nor witnesses examined, nor proof in any way entered into in the said suit.

And this repliant further replying admits, that afterwards, the said bill of complaint of the said John Aspden, of London, and the bill of revivor of the said Jennet and Mary and Thomas, as administrators of the said John Aspden, was dismissed out of the said court of chancery, in or about the year eighteen hundred and thirty, for want of due prosecution, and because no evidence had been taken in the said cause, and without any hearing, debate, or argument upon the merits of the claims stated in the said original bill and bill of revivor, and without any decision, examination, or determination of the said court of the title of the said John Aspden, and the said Jennet, Mary, and Thomas, to the relief prayed for by them. And that, by the dismissal of the said bills, the personal estate of the said testator, Matthias Aspden, then in Great Britain, and under the control of the said high court of chancery, was delivered unto the said Henry Nixon, as executor of the said Matthias, to be applied by him according to the decision of some court of competent jurisdiction in the United States of America, and to be paid over, after deducting proper charges and allowances, to such person or persons as, in such court, should establish their claim thereto as heirs-at-law to the said testator under the provisions of his said will and codicils, and for no other purpose whatever.

And this repliant further saith that afterwards, on or about the month of August, A. D. eighteen hundred and thirty, the said Jennet, otherwise Janet Jones, and Thomas Poole and Mary, his wife, caused their bill of complaint to be filed in the court of exchequer, in that part of the united kingdom of Great Britain and Ireland called England, wherein the said Jennet, otherwise Janet Jones, and Thomas Poole and Mary, his wife, were complainants, and the said Henry Nixon, who

was then, and always continued to be, out of the jurisdiction of the said court of exchequer, Henry Hugh Hoare, and Charles Hoare, and Henry Merrick Hoare, and others, were defendants; which said bill of complaint charged and stated in substance as had been before charged and stated in the said original and amended bills and bill of revivor, filed as aforesaid in the said court of chancery by the said John Aspden, and Jennet, Mary, and Thomas, and to this said bill of complaint so filed as aforesaid in the said court of exchequer; the said Henry Nixon (being out of the jurisdiction of the said court) filed his plea in bar, setting forth as before set forth by him in his answers to the said original and amended bills in the high court of chancery, and alleging that the said suit in the court of chancery was for the same matters, and to the same purpose, and for the like relief, as the said suit in the court of exchequer. And therefore the said Henry Nixon, the defendant, did plead the said dismissal of the said suit by the high court of chancery in bar to the bill of complaint in the said court of the exchequer. And this repliant admits that the said plea in bar, so filed by the said Henry Nixon, was allowed by the said court of exchequer.

And the said repliant further replying saith, that the said plea was allowed upon the ground of want of jurisdiction in the said court of exchequer to entertain a bill of complaint in relation to the same matters of which the said court of chancery had previously taken cognizance, although the said bill had been dismissed by the said court of chancery for want of prosecution. And because, also, according to the special practice, rules, and regulations of the said court of exchequer, that court would not and could not sustain a bill of complaint of the same matter of which the said court of chancery had previously entertained jurisdiction, and because the suit in the said court of exchequer was considered in the nature of an appeal from the decree of the said court of chancery, and such proceeding could not be supported, as the said courts were courts of concurrent jurisdiction. And the said court of chancery, having first entertained the suit in relation to the premises, obtained exclusive jurisdiction, so far as respected the said court of exchequer, of the subject matters of the said bill of complaint; and that the said plea in the exchequer was allowed without any hearing, debate, or argument, upon the merits of the said claim of the said Jennet, otherwise Janet, Jones and Mary and Thomas Poole, and without any examination, decision, and determination whatever of the title of said complainants to the relief sought by their said bill of complaint.

And that, upon the allowance of his plea in bar, the said personal estate of the testator in England, and under the control of the said court of exchequer, was delivered unto the said Henry Nixon, to be applied by him according to the prayer of his answer in the high court of chancery in England, in such manner as should be decided by a court of competent jurisdiction in the United States of America, and paid over to such person or persons as should establish their claim thereto in such court as heirs-at-law of the testator, (first deducting all proper charges and allowances,) under the provisions of his said will and codicils.

Without that, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, and herein not replied unto, confessed and avoided, traversed or denied, is true. All which matters and things this repliant is and will be ready to aver and prove as this honorable court shall award, and humbly prays as in and by his said bill or petition he hath already prayed.

H. J. WILLIAMS,
Solicitor for repliant.

In the circuit court of the United States, for the third circuit, April session, 1828.

PACKER vs. NIXON. } In equity.

The replication of John A. Brown, administrator to the estate of John Aspden, late of Old street, London, deceased, one of the complainants to the plea of Henry Nixon, executor of the last will and testament of Matthias Aspden, deceased, defendant.

This repliant, saving and reserving to himself all and all manner of advantage and exception to the manifold insufficiencies of said plea, (and in accordance with the order of the said court, made on the day of January last, and by leave thereof, without prejudice to the said repliant,) for and by way of replication, saith, that his original bill or petition, exhibited against the said Henry Nixon, the defendant, and all and every the matters, &c., therein contained, are true, certain, and sufficient in law to be answered unto; and that the plea of the said defendant is untrue, uncertain, and insufficient in the law to be replied unto by this repliant, save and except only that this repliant admits that, on or about the thirtieth day of July, A. D. eighteen hundred and twenty-five, a bill was filed in the high court of chancery, in that part of the united kingdom of Great Britain and Ireland called England, wherein John Aspden, then of the city of London, since deceased, was complainant, and the said Henry Nixon, executor of the will and codicils of Matthias Aspden, deceased, Samuel Williams, John Sterling, and others, were defendants; the said Henry being then, and at all times thereafter, resident in and a citizen of the United States of America, and out of the jurisdiction of the said court; in which said bill of complaint it was, among other things, stated, that the said Matthias Aspden died in the city of London, possessed of considerable property in the English, French, and American funds, and other personal estate; and also, after setting forth the contents of the said will, and the three codicils thereof, of the said Matthias Aspden, that the said testator departed this life without issue, and without any brother or sister of the whole blood him surviving, but leaving half-brothers and sisters, and descendants of half-brothers and sisters, on the mother's side, and descendants of a half-sister on the father's side, but which half-sister was illegitimate, him surviving; and also that, at the time of the death of

the said testator, the said Henry Nixon was president of the old bank at Philadelphia; that he proved the said will and codicils at the proper office at Philadelphia, and also in the prerogative court of Canterbury, in England, and that the said testator left the said John Aspden, the complainant, his heir-at-law.

And it was further, in the said bill of complaint, stated, that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of the testator and the said John Aspden, the complainant; and that Mathias Aspden, the father of the testator, was the third son of the said Thomas Aspden, the common ancestor, who had twelve children; and that the said Mathias Aspden, the father, being resident in America, married there an American woman, and that the said Mathias Aspden had issue by her, after said marriage, an only child, the said testator; and that the said Matthias Aspden, the father, died in or about the year seventeen hundred [and] sixty-five, in Philadelphia, leaving the said testator his only lawful issue him surviving. And further, among other things, that there were certain persons in America who claimed to be the heirs-at-law and next of kin of the testator, according to the laws of Pennsylvania, and as such entitled to his whole estate; and it was prayed, by and in the said bill of complaint, that an account might be taken of the personal estate of the testator in England, and the residue ascertained, and that the said complainant might be declared by the said court to be entitled, upon the true construction of the said will and codicils, as the heir-at-law of the testator to such residue; and, in the mean time, that the said defendants, Henry Nixon, and Samuel Williams and John Sterling, the constituted attorneys of the said Henry Nixon, also defendants, might be restrained, by injunction, from receiving any part of the personal estate of the said testator in England, and particularly from selling or transferring several stocks and securities in the said bill of complaint particularly mentioned and set forth, and from receiving, transferring, or disposing of certain moneys and effects in the hands and possession of certain other persons, also named as defendants in the said bill of complaint.

And this repliant further answering saith, that he admits an injunction was issued, pursuant to the prayer of the above recited bill of complaint, and that the said Henry Nixon, being still without the jurisdiction of the said court, caused his answer to the said bill of complaint to be filed in the said court of chancery, on or about the twentieth day of July, anno domini eighteen hundred and twenty-six, wherein, among other things, he stated, that he did not know, and was unable to say, from his belief or otherwise, whether said testator left the said John Aspden, the complainant, his heir-at-law, or whether Thomas Aspden, of Simondstone, was the common ancestor of the testator and the said complainant. And the said defendant, in his said answer, also, among other things, stated, that he believed it to be true that the name of the father of the said testator was Mathias Aspden, and that the said Mathias Aspden, the father, was resident in America, and while there married Rebecca Hartley, a native of America, who was the widow of

Rodger Hartley, and the daughter of Philip and Rebecca Packer, both residents of North America; and that Mathias, the father, had issue of her, after his marriage as aforesaid, an only child, the said testator. And said defendant also stated, in his said answer, that he had heard it mentioned that the said Mathias Aspden married the said Rebecca Hartley while she was pregnant with the testator; and he believed the said Rebecca Hartley had several children by her former husband, Roger Hartley, none of whom were then living, but that some of them had left children who were then in full life.

And the said defendant further stated, that he believed the said Mathias Aspden, the testator's father, had a former wife, named Mary Watson, the daughter of Jonathan Watson, of Cleviger, in Lancashire, by whom he had issue a daughter, named Mary, who intermarried with Henry Harrison, of Philadelphia, who is deceased, leaving several children, one of whom, named George Harrison, was then living in the city of Philadelphia; and that there were many persons in the United States of America who claimed to be next of kin to the said testator, and as such entitled to the said personal estate of the said testator under his said will and codicils.

And the said defendant further stated in his said answer, that he intended to apply the personal estate of the said testator in such manner as should be determined by a court of competent jurisdiction in the said United States of America.

And this repliant further saith, that on or about the month of July, in the year eighteen hundred and twenty-seven, an amended bill was filed by the said John Aspden, and that the said John Aspden died on or about the twenty-second day of February, A. D. eighteen hundred and twenty-eight, whereupon the said suit became abated; and that, on or about the eighteenth day of March, A. D. eighteen hundred and twenty-eight, Jennet Jones and Thomas Poole and Mary, his wife, the said Jennet, and Mary, and Thomas, being the administrator and administratrixes of the estate of the said John Aspden, of London, deceased, filed their bill of revivor in the said court of chancery against the said defendants, (the said Jennet and Mary having first obtained letters of administration from the said prerogative court of Canterbury to the said estate of the said John Aspden, deceased,) and the said Henry Nixon, being out of the jurisdiction of the said court, put in his answer to the said amended bill, stating therein as he has before stated in his answer to the said original bill of the said John Aspden, deceased.

And this repliant further saith, that the said John Aspden, of London, had been, for a long time before his death, in a state of mental imbecility, and in great poverty, and at his decease left his two daughters, the said *said* Jennet Jones and Mary Poole, and Thomas Poole, the husband of the said Mary, all in extreme proverty, and utterly unable from their own resources, or from the estate of their said father, to provide or procure the means for prosecuting and carrying on the said suit in the said court of chancery; and also that Thomas Gregson, who had been the attorney of the said John Aspden in his lifetime,

and was, after his death, the attorney of the said Jennet, Mary, and Thomas, having been for a long time previously in very infirm health, also departed this life some time in the year eighteen hundred and thirty.

And this repliant further saith, that in consequence of the poverty and imbecility of the said John Aspden during his life, and the poverty of his two daughters, the said Jennet and Mary, and of the said Thomas Poole, the husband of the said Mary, and of the continued illness and death of the said Thomas Gregson, their said attorney, they, the said Jennet, and Thomas and Mary, were utterly unable to prosecute and carry on the said suit in the said court of chancery; and the same was not prosecuted and carried on, and no evidence whatever was taken, nor witnesses examined, nor proof in any way entered into in the said suit.

And this repliant further replying admits, that afterwards, the said bill of complaint of the said John Aspden, of London, and the bill of revivor of the said Jennet, Mary, and Thomas, as the administrators of the said John Aspden, was dismissed out of the said court of chancery in or about the month of July, in the year eighteen hundred and thirty, for want of due prosecution, and because no evidence had been taken in the said cause, and without any hearing, debate, or argument upon the merits of the claims stated in the said original bill and bill of revivor, and without any decision, examination, or determination, by the said court, of the title of the said John Aspden, and the said Jennet, Mary, and Thomas, to the relief prayed for by them; and that by the dismissal of the said bills the personal estate of the said testator, Mathias Aspden, then in Great Britain, and under the control of the said high court of chancery, was delivered unto the said Henry Nixon, as executor of the said Matthias Aspden, to be applied by him according to the decision of some court of competent jurisdiction in the United States of America, and to be paid over, after deducting proper charges and allowances, to such person or persons as in such court should establish their claim thereto as heirs-at-law of the said testator, under the provisions of his said will and codicils, and for no other purpose whatsoever. Without that, [that] there is any other matter or thing in the said defendant's plea contained, material or effectual for this repliant to reply unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all which matters and things, save and except as aforesaid, this repliant is ready to aver and prove as this court shall award, and prays as in and by his said original bill or petition he hath prayed.

HENRY J. WILLIAMS, *Solicitor*.

In the circuit court of the United States, for the third circuit.

PACKER vs. NIXON. } April session, 1828, in equity.

The replication of Jennet, otherwise Janet Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, and to the plea of Henry Nixon, executor of the will of Mathias Aspden, deceased, defendant.

These repliants, saving and reserving to themselves all and all manner of advantage and exception to the manifold insufficiencies of said plea, and without prejudice, (according to the order of the said court, made on the day of January last past,) for and by way of replication say, that their original bill or petition exhibited against the said defendant, and all and every the matters, &c., therein contained, are true, certain, and sufficient in the law to be answered unto; and that the plea of the defendant is untrue, uncertain, and insufficient in the law to be replied unto by these repliants; save and except only that, on or about the thirtieth day of July, anno domini eighteen hundred and twenty-five, a bill was filed in the high court of chancery, in that part of the united kingdom of Great Britain and Ireland called England, wherein John Aspden, then of the city of London, since deceased, the father of these repliants, was complainant; and the said Henry Nixon, executor of the will and codicils of Mathias Aspden, deceased, Samuel Williams, and John Sterling, and others, were defendants; the said Henry being then, and at all times thereafter, a citizen of, and resident in, the United States of America, and out of the jurisdiction of said court; whereon, after stating, among other things, the death of the said Mathias Aspden, in the city of London, possessed of considerable property in the English, French, and American funds, and of other personal estate; and after setting forth the contents of the will and three codicils thereto of the said Mathias Aspden, and also stating that the said testator departed this life without issue, and without any brother or sister of the whole blood him surviving, but leaving half-brothers and sisters, and descendants of half-brothers and sisters, on the mother's side, and descendants of a half-sister on the father's side, but which half-sister was illegitimate, him surviving; and stating that, at the time of the death of the said testator, the said Henry Nixon was president of the old bank at Philadelphia, and that he proved said will and codicils in the proper office in Philadelphia and in the prerogative court of Canterbury; and also that the said testator left the said John Aspden, the complainant, his heir-at-law; and further stating, that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of the testator and the said John Aspden, the complainant. And that Mathias Aspden, the father of the testator, was the third son of the said Thomas Aspden, the common ancestor, who had twelve children; and that the said Mathias Aspden, the father, being resident in America, married there an American woman, and that the said Mathias Aspden had issue by her, after said marriage, an only child, the said testator; and that the said Mathias Aspden, the father, died in or about the year seventeen hundred and sixty-five, in Philadelphia, leaving the said testator his only lawful issue him surviving; and also stating, among other things, that there

were certain persons in America who claimed to be the heirs-at-law and next of kin to the testator, according to the laws of Pennsylvania, and as such entitled to his whole estate, and praying that an account might be taken of the personal estate of the said testator in England, and the residue ascertained; and that the said complainant might be declared by the court to be entitled, upon the true construction of the will and codicils, as the heir-at-law of the said testator to such residue; and that, in the mean time, the said defendant, Henry Nixon, and Samuel Williams and John Sterling, the constituted attorneys of the said Henry Nixon, also defendants, might be restrained by injunction from receiving any part of the personal estate of the said testator in England, and particularly from selling or transferring several stocks and securities in the said bill particularly mentioned and set forth, and certain moneys and effects in the hands of other persons also named as defendants to the said bill of complaint.

And these repliants admit, that an injunction was issued pursuant to the prayer of the above recited bill of complaint; and these repliants further say, that the said Henry Nixon, being out of the jurisdiction of the said court, caused his answer to the said bill of complaint to be filed in the said court of chancery, on or about the twentieth day of July, anno domini eighteen hundred and twenty-six, wherein he stated, among other things, that he did not know, and was unable to say from his belief or otherwise, whether said testator left the said John Aspden, the complainant, his heir-at-law, or whether Thomas Aspden, of Simondstone, was the common ancestor of the testator and the petitioner. And the said defendant in his said answer also stated, that he believed it to be true that the name of the father of the said testator was Matthias Aspden, and that the said Matthias Aspden, the father, was resident in America, and while there married Rebecca Hartley, a native of America, who was the widow of Rodger Hartley, and the daughter of Philip and Rebecca Packer, both residents of North America, and that Matthias, the father, had issue by her, after said marriage, an only child, the said testator; and said defendant also stated in his said answer, that he had heard it mentioned that the said Matthias Aspden married the said Rebecca Hartley while she was pregnant with the said testator, and that he believed the said Rebecca Hartley had several children by her former husband, Roger Hartley, none of whom were then living, but that some of them had left children who were living still; and said defendant further stated, that he believed that the said Matthias Aspden, the testator's father, had a former wife, named Mary Watson, the daughter of Jonathan Watson, of Cleviger, in Lancashire, by whom he had issue a daughter, named Mary, who intermarried with Henry Harrison, of Philadelphia, who is deceased, leaving several children, one of whom, named George Harrison, was then living in the city of Philadelphia; and that there were many persons in the United States of America who claimed to be next of kin to the said testator, and as such entitled to the said personal estate of the testator; and the said defendant further stated in his said answer, that he intended to apply the

testator's personal estate in such manner as should be determined *as should be determined* by a court of competent jurisdiction in America; and these repliants further say, that in or about the month of July, anno domini eighteen hundred and twenty-seven, an amended bill was filed by the said John Aspden, and that he died on or about the twenty-second day of February, anno domini eighteen hundred and twenty-eight, whereupon the said suit became abated; and that on or about the eighteenth day of March, anno domini eighteen hundred and twenty-eight, these repliants, together with Thomas Poole, the husband of the said Mary, (which Thomas Poole has since died) the said Jennet and Mary being the only children and co-heiresses-at-law of the said John Aspden, of London, deceased, filed their bill of revivor in the said court of chancery against the said defendants, having first obtained letters of administration to the estate of John Aspden, from the prerogative court of Canterbury, in England; and the said Henry Nixon, being out of the jurisdiction of said court, put in an answer to the said amended bill, stating as he had before stated in his answer to the said original bill of the said John Aspden; and these repliants further say, that the said John Aspden, of London, had been for a long time before his death in a state of mental imbecility and in great poverty, and left his daughters, the said Janet Jones and Mary Poole, and Thomas Poole, the husband of the said Mary, also in extreme poverty, and utterly unable to provide means, either from their own resources or from the estate of their father, for carrying on their said suit in the said court of chancery; and also that Thomas Gregson, who had been the attorney of the said John Aspden in his lifetime, and who was after his death the attorney of the said Jennet, Mary, and Thomas, having been for a long time in very infirm health, also departed this life some time in the year eighteen hundred and thirty.

And these repliants further say, that in consequence of the poverty and imbecility of the said John Aspden during his lifetime, and the poverty of these repliants, his two daughters, the said Jennet and Mary, and of the husband of the said Mary, and of the illness and death of their said attorney, Thomas Gregson, they became utterly unable to prosecute and carry on the said suit in the said court of chancery, and the same was therefore not prosecuted and carried on, and no evidence whatever was taken, nor witnesses examined, nor proof entered into, in the said suit. And these repliants admit, that afterwards the said bill of complaint of the said John Aspden, of London, and the bill of revivor of the said Jennet, Mary, and Thomas, as administrators of the said John Aspden, was dismissed out of the said court of chancery in or about the month of July, eighteen hundred and thirty, for want of due prosecution, and because no evidence was taken in the said cause, and without any hearing, debate, or argument upon the merits of the claim stated in the said original bill and bill of revivor, and without any examination, decision, or determination by the said court of the title of the said John Aspden, and of the said Janet, Mary, and Thomas, to the relief prayed for by them; and that by such dismissal

of said bills the personal estate of the testator then in Great Britain, and under the control of the said high court of chancery, was delivered to the said Henry Nixon, as executor of the said Matthias Aspden, to be applied by him according to the decision of some court of competent jurisdiction in the United States of America, and to be paid over to the person or persons who in such court shall establish their claim to the same as heirs-at-law of the said testator, and for no other purpose whatever.

Without that, that any other matter or thing whatsoever, in the said plea contained, material or effectual in the law for these repliants to reply unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all and every of which matters and things these repliants are ready to aver and prove as this honorable court shall direct; and they humbly pray as in and by their said petition they have already prayed.

JAMES S. SMITH,
Solicitor for Mrs. Poole and Mrs. Jones.

In the circuit court of the United States, for the third circuit, April sessions, 1828.

In equity.

PACKER
vs.
NIXON.

The replication of Jannet, otherwise Jenet Jones, widow of David Jones, deceased, and Mary Poole, widow of Thomas Poole, deceased, to the plea of Henry Nixon, executor of the will of Mathias Aspden, deceased, defendant.

These repliants, saving and reserving to themselves all and all manner of advantage and exception to the manifold insufficiencies of said plea, and without prejudice, (according to the order of the said court, made on the day of January last past,) for and by way of replication, say, that their original bill or petition exhibited against the said defendant, and all and every the matters therein contained, are true, certain, and sufficient in the law to be answered unto; and that the plea of the defendant is untrue, uncertain, and insufficient in the law to be replied unto by these repliants; save and except only, that on or about the thirtieth day of July, anno domini eighteen hundred and twenty-five, a bill was filed in the high court of chancery in that part of the united kingdom of Great Britain and Ireland called England, wherein John Aspden, then of the city of London, since deceased, the father of these repliants, was complainant, and the said Henry Nixon, executor of the will and codicils of Mathias Aspden, deceased, and Samuel Williams and John Sterling, and others, were defendants; the said Henry being then, and at all times thereafter, a citizen of, and resident in, the United States of America, and out of the jurisdiction of said court; wherein, after stating among other things the death of the said Mat-

this Aspden, in the city of London, possessed of considerable property in the English, French, and American funds, and of other personal estate; and after setting forth the contents of the will and three codicils thereto of the said Matthias Aspden, and also stating that the testator departed this life without issue, and without any brother or sister of the whole blood him surviving, but leaving half-brothers and sisters, and descendants of half-brothers and sisters, on the mother's side, and descendants of a half-sister on the father's side, but which half-sister was illegitimate, him surviving; and stating that, at the time of the death of the said testator, the said Henry Nixon was president of the old bank at Philadelphia, and that he proved said will and codicils in the proper office in Philadelphia and in the prerogative court of Canterbury; and also that the said testator left the said John Aspden, the complainant, his heir-at-law; and further stating that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of the testator and the said John Aspden, the complainant; and that Mathias Aspden, the father of the testator, was the third son of said Thomas Aspden, the common ancestor, who had twelve children; and that the said Mathias Aspden, the father, being resident in America, married there an American woman, and that the said Mathias Aspden had issue by her, after said marriage, an only child, the said testator; and that the said Mathias Aspden, the father, died, in or about the year seventeen hundred and sixty-five, in Philadelphia, leaving the said testator his only lawful issue him surviving; and also stating, among other things, that there were certain persons in America who claimed to be the heirs-at-law and next of kin to the testator, according to the laws of Pennsylvania, and as such entitled to his whole estate, and praying that an account might be taken of the personal estate of the said testator in England, and the residue ascertained; and that the said complainant might be declared by the court to be entitled, upon the true construction of the will and codicils, as the heir-at-law of the said testator to such residue; and that, in the mean time, the said defendant, Henry Nixon, and John Sterling and Samuel Williams, the constituted attorneys of the said Henry Nixon, also defendants, might be restrained by injunction from receiving any part of the personal estate of the said testator in England, and particularly from selling or transferring several stocks and securities in the said bill particularly mentioned and set forth, and certain moneys and effects in the hands of other persons, also named as defendants to the said bill of complaint.

And these repliants admit, that an injunction was issued pursuant to the prayer of the above recited bill of complaint. And these repliants further say, that the said Henry Nixon, being out of the jurisdiction of said court, caused his answer to the said bill of complaint to be filed in the said court of chancery, on or about the twentieth day of July, anno domini eighteen hundred and twenty-six, wherein he stated, among other things, that he did not know, and was unable to say from his belief or otherwise, whether said testator left the said John Aspden, the complainant, his heir-at-law, or whether Thomas Aspden,

of Simondstone, was the common ancestor of the testator and the petitioner. And the said defendant in his said answer also stated, that he believed it to be true that the name of the father of the said testator was Mathias Aspden; and that the said Mathias Aspden, the father, was resident in America, and while there married Rebecca Hartley, a native of America, who was the widow of Roger Hartley and the daughter of Philip and Rebecca Packer, both residents of North America; and that Mathias, the father, had issue by her, after said marriage, an only child, the said testator; and said defendant also stated in his said answer that he had heard it mentioned that the said Mathias Aspden married the said Rebecca Hartley while she was pregnant with the said testator; and that he believed the said Rebecca Hartley had several children by her former husband, Roger Hartley, none of whom were then living, but that some of them had left children who were living still.

And said defendant further stated, that he believed that the said Mathias Aspden, the testator's father, had a former wife, named Mary Watson, the daughter of Jonathan Watson, of Cleviger, in Lancashire, by whom he had issue a daughter, named Mary, who intermarried with Henry Harrison, of Philadelphia, who is deceased, leaving several children, one of whom, named George Harrison, was then living in the city of Philadelphia; and that there were many persons in the United States of America who claimed to be next of kin to the said testator, and as such entitled to the said personal estate of the testator; and the said defendant further stated in his said answer that he intended to apply the testator's personal estate in such manner as should be determined by a court of competent jurisdiction in America.

And these repliants further say, that on or about the month of July, anno domini eighteen hundred and twenty-seven, an amended bill was filed by the said John Aspden, and that he died on or about the twenty-second day of February, anno domini eighteen hundred and twenty-eight, whereupon the said suit became abated; and that on or about the eighteenth day of March, anno domini eighteen hundred and twenty-eight, these repliants, together with Thomas Poole, the husband of the said Mary, (which Thomas Poole has since died,) the said Jennet and Mary being the only children and co-heiresses-at-law of the said John Aspden, of London, deceased, filed their bill of revivor in the said court of chancery against the said defendants, having first obtained letters of administration to the estate of John Aspden from the prerogative court of Canterbury, in England; and the said Henry Nixon being out of the jurisdiction of said court, put in an answer to the said amended bill, stating as he had before stated in his answer to the said original bill of the said John Aspden.

And these repliants further say, that the said John Aspden, of London, had been, for a long time before his death, in a state of mental imbecility, and in great poverty, and left his daughters, the said Janet Jones and Mary Poole, and Thomas Poole, the husband of the said Mary, also in extreme poverty, and utterly unable to provide means,

either from their own resources or from the estate of their father, for carrying on their said suit in the said court of chancery; and also that Thomas Gregson, who had been the attorney of the said John Aspden in his lifetime, and who was, after his death, the attorney of the said Jennet, Mary, and Thomas, having been, for a long time, in very infirm health, also departed this life some time in the year eighteen hundred and thirty.

And these repliants further say, that in consequence of the poverty and imbecility of the said John Aspden during his life, and the poverty of these repliants, his two daughters, the said Jennet and Mary, and the husband of the said Mary, and of the illness and death of their said attorney, Thomas Gregson, they became utterly unable to prosecute and carry on the said suit in the said court of chancery, and the same was therefore not prosecuted and carried on, and no evidence whatever was taken, nor witnesses examined, nor proof entered into, in the said suit. And these repliants admit, that afterwards, the said bill of complaint of the said John Aspden, of London, and the bill of revivor of the said Jennet, Mary, and Thomas, as administrators of the said John Aspden, was dismissed out of the said court of chancery in or about the month of July, eighteen hundred and thirty, for want of due prosecution, and because no evidence was taken in the said cause, and without any hearing, debate, or argument upon the merits of the claim stated in the said original bill and bill of revivor, and without any examination, decision, or determination, by the said court, of the title of the said John Aspden, and of the said Jennet, Mary, and Thomas, to the relief prayed for by them; and that by the said dismissal of such bills the personal estate of the testator, then in Great Britain, and under the control of the said high court of chancery, was delivered to the said Henry Nixon, as executor of the said Mathias Aspden, to be applied by him according to the decision of some court of competent jurisdiction in the United States of America, and to be paid over to the person or persons who, in such court, shall establish their claim to the same as heirs-at-law of the said testator, and for no other purpose whatever.

And these repliants further say, that afterwards, on or about the month of August, anno domini eighteen hundred and thirty, the said Jennet, otherwise Janet Jones, and Thomas Poole and Mary, his wife, caused their bill of complaint to be filed in the court of exchequer of that part of the united kingdom of Great Britain and Ireland called England, wherein the said Jennet, otherwise Janet Jones, and Thomas Poole and Mary, his wife, were complainants, and the said Henry Nixon, who was then, and always continued to be, out of the jurisdiction of the said court of exchequer, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and others, were defendants; which said bill of complaint charged and stated, in substance, as had been before charged and stated in the said original and amended bills, and bill of revivor, filed as aforesaid in the said court of chancery by the said John Aspden, and Janet, Mary, and Thomas;

and to this said bill of complaint, so filed as aforesaid in the said court of exchequer, the said Henry Nixon (being out of the jurisdiction of the said court) filed his plea in bar, setting forth, as before set forth by him in his answers to the said original and amended bills in the high court of chancery, and alleging, that the said suit in the court of chancery was for the same matters, and to the same purpose, and for the like relief, as the said suit in the court of exchequer; and therefore the said Henry Nixon, the defendant, did plead the said dismissal of the said suit by the high court of chancery in bar to the said bill of complaint in the said court of *the* exchequer. And these repliants admit that the said plea in bar, so filed by the said Henry Nixon, was allowed by the said court of exchequer.

And the said repliants further replying say, that the said plea was allowed upon the ground of want of jurisdiction in the said court of exchequer to entertain a bill of complaint in relation to the same matters of which the said court of chancery had previously taken cognizance, although the said bill had been dismissed by the said court of chancery for want of prosecution; and because, also, according to the special practice, rules, and regulations of the said court of exchequer, that court could not and would not sustain a bill of complaint of the same matter of which the said court of chancery had previously entertained jurisdiction; and because the suit in the court of exchequer was considered in the nature of an appeal from the decree of the said court of chancery, and such proceeding could not be supported, as the said courts were courts of concurrent jurisdiction; and the said courts of chancery having first entertained the suit in relation to the premises, obtained exclusive jurisdiction, so far as it respected the said court of exchequer, of the subject matters of the said bills of complaint; and that the said plea in the exchequer was allowed, without any debate, argument, or hearing upon the merits of the said claim of the said Jennet, otherwise Janet Jones, and Mary, and Thomas Poole, and without any examination, decision, and determination whatever, of the title of said complainants to the relief sought by their said bill of complaint; and that, upon the allowance of his plea in bar the said personal estate of the testator in England, and under the control of the said court of exchequer, was delivered unto the said Henry Nixon, to be applied by him according to the prayer of his answer in the high court of chancery in England, in such manner as should be decided by a court of competent jurisdiction in the United States of America, and paid over to such person or persons as should establish their claim thereto, in said court, as heirs-at-law of the testator, (first deducting all proper charges and allowance,) under the provisions of his said will and codicils.

Without that, that any other matter or thing whatsoever in the said plea contained, material or effectual in the law for these repliants to reply unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true; all and every of which matters and things these repliants are ready to aver and prove

as this honorable court shall direct; and they humbly pray as in and by their said petition they have already prayed.

JAMES S. SMITH,
Solicitor for Mrs. Poole and Mrs. Jones.

Circuit court of the United States, for the eastern district of Pennsylvania, April sessions, 1828.

PACKER vs. NIXON. } No. 1.—In equity.

The rejoinder of Henry Nixon, the defendant, to the replication of Janet Jones and Mary Poole.

The said defendant, now and at all times hereafter, saving and reserving to himself all and all manner of benefit and advantage of exception to the uncertainty and insufficiency of the said replication, *and* saith, that the defendant's plea is certain, true, and sufficient in the law to be replied unto; and also saith, as in and by his said plea he hath already said, and doth and will aver and maintain, all and every thing and things therein to be true and certain, in such manner and form as they, and every of them, are therein alleged and expressed.

And this defendant further saith, that the said replication of the said complainants or petitioners is untrue, uncertain, and insufficient in the law to be rejoined unto by this defendant; without this, that any other matter or thing whatever in the said replication contained, material or effectual in the law to be rejoined unto, confessed and avoided, traversed or denied, is true; all which matters and things this defendant is, and will be, ready to aver and prove, as this honorable court shall direct; and humbly prays as in and by his said plea he hath already prayed.

J. R. INGERSOLL, *for deft.*

[Filed April 4, 1837.]

Circuit court of the United States, for the eastern district of Pennsylvania, April sessions, 1828.

PACKER vs. NIXON. } No. 1.—In equity. [Filed 4 April, 1837.]

The rejoinder of Henry Nixon, the defendant, to the replication of John A. Brown, administrator of John Aspden, late of Old street, London.

The said defendant, now and at all times hereafter, saving and reserving to himself all and all manner of benefit and advantage of exception to the uncertainty and insufficiency of the said replication, saith, that the defendant's plea is true, certain, and sufficient in the law to be replied unto; and also saith, as in and by his said plea he hath already said, and doth and will aver and maintain, all and every

thing and things therein to be true and certain, in such manner and form as they, and every of them, are therein alleged and expressed.

And this defendant further saith, that the said replication of the said complainant or petitioner is untrue, uncertain, and insufficient in the law to be rejoined unto by this defendant; without this, that any other matter or thing whatever, in the said replication contained, material or effectual in the law to be rejoined unto, confessed and avoided, traversed or denied, is true; all which matters and things this defendant is, and will be, ready to aver and prove as this honorable court shall direct; and humbly prays as in and by his said plea he hath already prayed.

J. R. INGERSOLL, *for deft.*

Circuit court of the United States, for the eastern district of Pennsylvania, April sessions, 1828.

PACKER vs. NIXON. } No. 1.—In equity. [Filed 4 April, 1837.]

The rejoinder of Henry Nixon, the defendant, to the replication of Janet Jones and Mary Poole.

The said defendant, now and at all times hereafter, saving and reserving to himself all and all manner of benefit and advantage of exception to the uncertainty and insufficiency of the said replication, says, that the defendant's plea is certain, true, and sufficent in the law to be replied unto; and also says, as in and by his said plea he has already said, and does and will aver and maintain, all and every thing and things therein to be true and certain, in such manner and form as they, and every of them, are therein alleged and expressed.

And this defendant further says, that the said replication of the said complainants or petitioners is uncertain, untrue, and insufficient in the law to be rejoined unto by this defendant; without this, that any other matter or thing whatever, in the said replication contained, material or effectual in the law to be rejoined unto, confessed and avoided, traversed or denied, is true; all which matters and things this defendant is, and will be, ready to aver and prove as this honorable court shall direct; and humbly prays as in and by his said plea he has already prayed.

J. R. INGERSOLL, *for deft.*

Circuit court of the United States, for the eastern district of Pennsylvania, April sessions, 1828.

PACKER vs. NIXON. } No. 1.—In equity. [Filed 4 April, 1837.]

The rejoinder of Henry Nixon, the defendant, to the replication of John A. Brown, administrator of John Aspden, late of Old street, London.

The said defendant, now and at all times hereafter, saving and reserving to himself all and all manner of benefit and advantage of ex-

ception to the uncertainty and insufficiency of the said replication, saith, that the defendant's plea is certain, true, and sufficient in the law to be replied unto; and also saith, as in and by his said plea he hath already said, and doth and will aver and maintain, all and every thing and things therein to be true and certain, in such manner and form as they, and every of them, are therein alleged and expressed.

And this defendant further saith, that the said replication of the said complainant or petitioner is uncertain, untrue, and insufficient in the law to be rejoined unto by this defendant; without this, that any other matter or thing whatever, in the said replication contained, material or effectual in the law to be rejoined unto, confessed and avoided, traversed or denied, is true; all which matters and things this defendant is, and will be, ready to aver and prove as this honorable court shall direct; and humbly prays as in and by his said plea he hath already prayed.

J. R. INGERSOLL, *for deft.*

In the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, April session, 1828.

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, a citizen of the State of Pennsylvania, executor of the last will and testament of Matthias Aspden, dec. } No. 1.—In equity.

Interrogatories to be administered to witnesses to be produced, sworn, and examined on the part of the defendant, in pursuance of an order of the court in the above cause, dated the third day of January, A. D. one thousand eight hundred and thirty-seven.

Look upon the paper writings produced and shewn to you at this the time of your examination, marked

State whether or not the same, or any or either, and which of them, do or doth contain a true copy or copies of any, and what, record or records, or matters recorded, or in nature of record, of any and what court or courts, of any and what original or originals, of which the same do or doth purport to be a copy or copies.

Have you or have you not carefully examined or compared the said produced papers or writings, or either, and which of them, with such, if any record or records, or matters recorded, or in nature of record, or other original or originals? Declare the truth and your knowledge herein fully.

J. R. INGERSOLL, *for defendant.*

April 7th, 1837.

Defendant's commissioners, Henry Willis and —— Willis, of the firm of Willis, Watson, Bowers, and Willis, attorneys or solicitors, London.

In the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit. April sessions, 1828.

SAMUEL PACKER, a citizen of the State of New Jersey,
versus
HENRY NIXON, a citizen of the State of Pennsylvania, executor of the last will and testament of Matthias Aspden, deceased.
} No. 1. In equity.

Interrogatories to be administered to witnesses, to be produced and examined under a commission to be issued to London, in pursuance of an order of said court made on the 3d day of January, A. D. 1837, in the above cause, now pending and at issue in the said court:

On behalf of Janet Jones and Mary Poole, of London, complainants, admitted as parties in the above cause, under the mandate of the Supreme Court of the United States.

Interrogatory 1. Do you know the parties complainants or defendants, in the title to these interrogatories named, or any or either of them; did you know the testator, Matthias Aspden, or John Aspden, of London, deceased; and do you know his daughters, the said Janet Jones and Mary Poole; if yea, how long have you known them, or any of them, and which of them, respectively? Declare the truth of the several matters inquired of according to the best of your knowledge, remembrance, and belief, at large.

Interrogatory 2. Look at the paper writings produced in answer to the interrogatory proposed on behalf of the defendant above named under the commission, if any such are produced, and state whether, in the suits in such paper writings referred to, wherein John Aspden, of London, Janet Jones, and Thomas Poole and Mary, his wife, or some or one of them, were complainants, or among the complainants, and Henry Nixon, executor of Matthias Aspden, deceased, and others, were defendants, there was or was not any argument or discussion before the chancellor, vice chancellor, lord chief baron, or other baron of the exchequer, or other judge in equity, or before any other person or persons in relation to the matters, or any of them, contained in the pleadings of record, or in the nature of records, in the several suits aforesaid. If yea, state particularly the points argued and decided, and what were the decisions of the courts or judges thereon; and whether the said court or courts determined or decided upon the pedigree of the said John Aspden, of London, deceased, or of his daughters, Janet Jones and Mary Poole, or any or either of them, or upon their connexion with or relation to the said Matthias Aspden, the defendant's testator above named, or upon the merits of the claims set forth in their respective original bills and bills of revivor, or any or either of them, or upon the proper construction of the will of the said Matthias Aspden, the testator, or who was the person or persons designated therein as his heir-at-law. Declare fully your knowledge in all these matters, according to the best of your remembrance and belief, at large.

Interrogatory 3. State whether or not any evidence was given in the said several suits to which the paper writings, above referred to, (if any such are produced,) relate; and whether any depositions were taken or prepared in said several suits; and whether any evidence was given, proving or intended to prove the pedigree of the said John Aspden, of London, deceased, or that of his daughters, Janet Jones and Mary Poole, or their relationship to the said testator, Matthias Aspden. Declare all these matters fully and at large.

Interrogatory 4. Were or were not any depositions or evidence read or given to the court or courts aforesaid, in the course of the said suit or suits, in the said paper writings, if any such are produced, mentioned or referred to? If yea, annex copies thereof to your answers to these interrogatories, and cause them to be identified by the commissioners herein named.

Interrogatory 5. Have the claims of the said John Aspden, of London, deceased, as stated in the paper writings aforesaid, if any such are produced, been gone into in any of the said courts, and were or were not the decisions referred to therein made on preliminary objections?

Interrogatory 6. What were the age, circumstances, health, mental capacity, and occupation of the said John Aspden, of London, deceased, when the bill in the high court of chancery, if any such is produced, was originally filed; when did he die, and what estate did he leave?

Interrogatory 7. What were the ages, circumstances, and occupations of Janet Jones and Mary Poole, at the time of, and since the death of, their said father?

Interrogatory 8. If no evidence was given to the court or courts in the said suits, in said paper writings produced or referred to (if any such are produced) as aforesaid, state the causes, if any you know, why no such evidence was given to the said courts to support the claims stated in the original bills and bills of revivor therein referred to.

Interrogatory 9. State the causes and grounds of the dismissals of the original bills or bills of revivor in the said paper writings mentioned and referred to, (if any such writings are produced as aforesaid by the several courts wherein they were filed;) and whether such dismissals were or were not decreed upon the determination of the rights of the parties, complainants and defendants, therein, or upon the rules of practice adopted by said courts, or in order that the funds and property in question should be remitted to America to be distributed under the direction of some competent tribunal there. Declare fully and at large all your knowledge herein.

Interrogatory 10. Are the paper writings produced on the part of the defendant before the commissioners, (if any such are produced in answering the interrogatory in chief,) whole, entire, complete, and perfect copies of all the records of proceedings in the respective court or courts from which they are respectively taken in the suit or suits therein referred to? Have you examined and inquired for other records or matters recorded, or in the nature of records in the said courts, or either of them, in the said suit or suits? Have you found or discovered any

such? If yea, produce them all, and cause them to be identified by the commissioners herein named.

Interrogatory 11. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the said Janet Jones and Mary Poole, of London, or that may be material to the subject of your examination on their behalf, or to the questions in this cause. If yea, set them forth, and all the particulars thereof, according to the best of your knowledge and belief, as fully as if you had been particularly interrogated thereto.

JAMES S. SMITH,
For Janet Jones and Mary Poole.

Commissioners on behalf of Janet Jones and Mary Poole—
NATHANIEL MILNE,
WILLIAM COWBURN
Both of London, or either of them.

In the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, April sessions, 1828.

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, a citizen of the State of Pennsylvania, executor of the last will and testament of Matthias Aspden, deceased.
} No. 1, in equity.

Interrogatories to be administered to witnesses to be produced and examined under a commission to be issued to London, in pursuance of an order of said court, made on the 3d day of January, 1837, in the above cause now pending and at issue in the said court—

On behalf of John A. Brown, administrator of John Aspden, formerly of London, deceased, one of the complainants, admitted as parties in the above cause under the mandate of the Supreme Court of the United States.

Interrogatory 1. Do you know the parties, complainants or defendant, in the title to these interrogatories named, or any or either of them? Did you know the testator, Matthias Aspden, or the intestate, John Aspden, of London, deceased? If yea, how long have you known them, or any of them, and which of them respectively? Declare the truth of the several matters inquired of, according to the best of your knowledge, remembrance, and belief, at large.

Interrogatory 2. Look at the paper writings produced in answer to the interrogatory proposed in behalf of the defendant above named under this commission, if any such are produced, and state whether the suits in such paper writings referred to, wherein John Aspden, of London, Janet Jones, or Thomas Poole and Mary, his wife, or either or some of them, were complainants, or among the complainants, and Henry Nixon, executor of Matthias Aspden, and others, were defendants, there was or was not any argument or discussion before the chan-

cellor, vice chancellor, lord chief baron, or other baron of the exchequer, or other judge in equity, or before any other person or persons in relation to the matters, or any of them, contained in the pleadings of record, or in the nature of records in the several suits aforesaid? If yea, state particularly the points argued and decided, and what were the decisions of the courts or judges thereon, and whether the said court or courts determined or decided upon the pedigree of the said John Aspden, of London, deceased, or of his daughters, Janet Jones and Mary Poole, or any or either of them, or upon their connexion with, or relationship to, the said Matthias Aspden, the defendant's testator above named, or upon the merits of the claims set forth in their respective original bills and bills of revivor, or any or either of them, or upon the proper construction of the will of the said Matthias Aspden, the testator, or who was the person or persons designated therein as his heir at law. Declare fully your knowledge in all these matters, according to the best of your remembrance and belief, at large.

Interrogatory 3d. State whether or not any evidence was given in the said several suits to which the paper writings above referred to (if any such are produced) relate; and whether any depositions were taken or prepared in said several suits; and whether any evidence was given, proving, or intended to prove, the pedigree of the said John Aspden, of London, deceased, or that of his daughters, Janet Jones and Mary Poole, or their relationship to the said Matthias Aspden, the testator. Declare all these matters fully and at large.

Interrogatory 4th. Were or were not any depositions or evidence given or read to the court or courts aforesaid, in the course of said suit or suits, in the said paper writings (if any such are produced) mentioned or referred to? If yea, annex copies thereof to your answers to these interrogatories, and cause them to be identified by the commissioners herein named.

Interrogatory 5th. Have the claims of the said John Aspden, of London, deceased, as stated in the said paper writings, (if any such are produced,) been gone into in any of the said courts; and were or were not the decisions referred to therein made on preliminary objections?

Interrogatory 6th. What were the age, circumstances, health, mental capacity, and occupation, of the said John Aspden, of London, deceased, when the rule in the high court of chancery, if any such is produced, was originally filed; when did he die, and what estate did he leave?

Interrogatory 7th. What were the ages, circumstances, and occupations of Janet Jones and Mary Poole, at the time of, and since, the death of their said father?

Interrogatory 8th. If no evidence was given to the court or courts in the said suits, in said paper writings produced [and] referred to, (if any such are produced as aforesaid,) state the causes, if any you know, why no such evidence was given to the said courts to support the claims stated in the original bills and bills of revivor therein referred to.

Interrogatory 9th. State the causes and grounds of the dismissals of the original bills, *and* or bills of revivor, in the said paper writings mentioned, and referred to (if any such writings are produced as aforesaid) by the several courts wherein they were filed; and whether such dismissals were or were not decreed upon the determination of the rights of the parties complainants and defendants therein, or upon the rules of practice adopted by said courts, or in order that the funds and property in question should be remitted to America, to be distributed under the direction of some competent tribunal there. Declare fully and at large all your knowledge herein.

Interrogatory 10th. Are the paper writings, produced before the commissioner on the part of the defendant as aforesaid, whole, entire, complete, and perfect copies of all the records of proceedings in the respective court or courts from which they were respectively taken, in the suit or suits therein referred to? Have you inquired or examined for other records or matters of record, or as of record in the said courts in the said suit or suits, or either of them; have you found or discovered any such? If yea, produce them all, and cause them to be identified by the commissioners herein named.

Interrogatory 11th. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the said John A. Brown, administrator as aforesaid in this cause, or that may be material to the subject of your examination on his behalf, or to the questions in this cause? If yea, set them forth, and all the particulars thereof, according to the best of your knowledge and belief, as fully as if you had been particularly interrogated thereto.

HENRY J. WILLIAMS,
For J. A. BROWN,
Adm'r of J. A.

Commissioners on behalf of John A. Brown, administrator of John Aspden, deceased—

NATHANIEL MILNE,
WILLIAM COWBURN,
Both of London, or either of them.

In the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, April session, 1828.

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, a citizen of the State of Pennsylvania, executor of the last will and testament of Matthias Aspden, deceased.

No. 1, *in equity.*

Cross interrogatories to be administered to witnesses, to be produced, sworn, and examined, on behalf of the defendant, in pursuance of an order of the court in the above cause, dated the 3d day of January,

A. D. 1837, on the part and on behalf of Janet Jones and Mary Poole, of London, complainants, admitted parties to the above cause under the mandate of the Supreme Court of the United States.

First. Do you know the parties, complainants or defendants, in the title to these interrogatories named, or any or either of them? Did you know the testator, Matthias Aspden, or John Aspden, of London, deceased, or do you know his daughters, the said Janet Jones and Mary Poole; if yea, how long have you known them, or either and which of them? Declare the truth of the several matters in this interrogatory inquired of, according to the best of your knowledge, remembrance, and belief, at large.

Second. Are the paper writings, produced on the part of the defendant before the commissioners, (if any such are produced in answering the interrogatory in chief,) whole, entire, complete, and perfect copies of all the records of proceedings in the respective court or courts from which they are respectively taken in the suit or suits therein referred to? Have you examined and inquired for other records, or matters recorded, or in the nature of records, in the said courts, or either of them, in the said suit or suits; have you found or discovered any such? If yea, produce them all, and cause them to be identified by the commissioners herein named.

Third. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the said Janet Jones and Mary Poole, or that may be material to the subject of your cross examination? If yea, set forth the same, and all the particulars thereof, according to the best of your knowledge and belief, as fully as if you had been thereunto particularly interrogated.

JAMES S. SMITH,
For Janet Jones and Mary Poole.

Commissioners on behalf of Janet Jones and Mary Poole—
NATHANIEL MILNE,
WILLIAM COWBURN,
Both of London, or either of them.

In the circuit court of the United States, in and for the district of Pennsylvania, in the 3d circuit, April, 1828.

SAMUEL PACKER, a citizen of the State of New Jersey,
vs.
HENRY NIXON, a citizen of the State of Pennsylvania, executor of the last will and testament of Matthias Aspden, deceased. } No. 1, in equity.

Cross interrogatories to be administered to witnesses, to be produced, sworn, and examined, on behalf of the defendant, in pursuance of an order of the court in the above cause, dated the 3d day of January, A. D. 1837.

On the part and behalf of John A. Brown, administrator of John Aspden, formerly of London, deceased, a complainant, admitted a party to the above cause, under the mandate of the Supreme Court of the United States:

1. Do you know the parties, complainants or defendant, in the title to these interrogatories named, or any or either of them? Did you know the testator, Matthias Aspden, or the intestate, John Aspden, of London, deceased; if yea, how long [have you] known, or did you know them, or either, or which of them? Declare the truth of the matters in this interrogatory inquired of, according to the best of your knowledge, remembrance, and belief, fully and at large.

Interrogatory 2. Are the paper writings (if any such are produced in answering the interrogatory in chief) whole, entire, complete, and perfect copies of all the records and proceedings in the respective court or courts from which they are respectively taken in the suit or suits therein referred to? Have you examined or inquired for other records, or matters recorded, or in the nature of records, in the said courts, or either of them, in the said suit or suits; have you found or discovered any such? If yea, produce them all, and cause them to be identified by the commissioners herein named.

3. Do you know, or can you set forth, any other matter or thing which may be of benefit and advantage to the said John A. Brown, administrator to the said John Aspden, deceased, or that may be material to the subject of your cross examination? If yea, set forth the same, and all the particulars thereof, according to the best of your knowledge and belief, as fully as if you had been particularly interrogated thereunto.

H. J. WILLIAMS,
For JOHN A. BROWN,
Administrator of J. Aspden, deceased.

Commissioners on behalf of John A. Brown, administrator of John Aspden, deceased—

NATHANIEL MILNE,
WILLIAM COWBURN,
Both of London, or either of them.

Report of the master.

Afterwards, to wit, on the fourth day of October, A. D. 1837, Thomas I. Wharton, esquire, the master aforesaid, makes and presents his report, under the order of twenty-third May, 1836; which report, being read and filed, is in the words and of the tenor following, to wit:

REPORT OF THE MASTER, MADE UNDER THE ORDER OF MAY 23, 1836.

In the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, &c.

SAMUEL PACKER and others
vs.
HENRY NIXON, esq., executor of the will of MATTHIAS ASPDEN, deceased.
} October session, 1828. No. 1. in Equity.

To the honorable the judges of the circuit court of the United States, &c.

I respectfully report:

That in pursuance of the order of the court made on the 23d day of May, A. D. 1836, by which it was referred to me "to examine witnesses and take evidence touching the claims and rights of such persons as have been admitted parties to this cause since the rendition of the mandate of the Supreme Court in this case, to the fund in controversy therein, (excepting those to whose claims thereto pleas in bar have been or may be filed,) or such persons who may hereafter become parties to this cause; also to examine any witnesses, or to take any evidence, which may be offered by any of the parties, subject to legal objection, touching the domicil of the testator, Matthias Aspden, at the time of making his will, at the time of his death, or the intermediate period," I gave notice to the counsel of the several parties interested to appear at my office, No. 106, Walnut street, in the city of Philadelphia, on Tuesday, the 30th day of August, 1836, at four o'clock in the afternoon of that day, to offer such evidence relative to the said inquiries as they respectively might desire to be reported to the court.

And on the said day, and on divers other days and times appointed for the purpose, I was attended by the following named counsel and parties, viz:

By Joseph R. Ingersoll, esquire, for Henry Nixon, the defendant, and by the said Henry Nixon in his proper person.

By James S. Smith, esquire, for Mrs. Mary Poole and Mrs. Janet Jones, both of the city of London.

By James M. Broom, esquire, for John Aspden, of Lancashire, in England.

By William Rawle, esquire, for the same.

By Benjamin Tilghman, esquire, for George Harrison, Mary Harrison, James M'Murtrie and wife, Thomas H. White, Henry Reed and wife, Ann Emily Bronson, Hetta Attwater Bronson, William White Bronson, Thomas H. White, executor of Elizabeth H. M'Pherson, Joseph Worrell and wife, Rebecca Bolton, and Mary Ann Church.

By Henry J. Williams, esquire, for John A. Brown, administrator of the estate of John Aspden, of London, deceased.

By Samuel Davis, esquire, for Aaron Zane, Ebenezer Zane, Eaton Zane, John Zane, Bersheba Zane, Jane Zane, Joseph Edwards and

Rebecca, his wife, in right of the said Rebecca, late Rebecca Zane, and Samuel Champion and Sarah, his wife, late Sarah Zane, in right of said Sarah.

By John L. Newbold, esquire, for John Zane, Isaac Zane, Mahlon Doane and Rebecca, his wife, late Rebecca Hartley, in right of the said Rebecca, and Ann Ellis.

By Peter M'Call, esquire, for Elizabeth Hinchman, Joseph Heritage and Catherine, his wife, late Catharine Hinchman, Joseph White and Hannah, his wife, late Hannah Hinchman, and Benjamin Thomas and Rebecca, his wife, late Rebecca Hinchman.

By F. A. Raybold, esquire, for Edward E. Packer.

And by Thomas Aspden, attorney in fact for John Aspden, of Lancashire, in England, aforesaid.

And in pursuance of the said order of the court I took the depositions of the following named witnesses, who were produced before me, and who were the only witnesses whom I was requested by any of the parties to examine, viz., the depositions of Elizabeth Hinchman, William Jefferies, Jacob Wollohon, and John A. Balderston.

I also report that, in pursuance of notice given to him by the counsel of John Aspden, of Lancashire, the defendant produced at my office divers manuscript books, and a large number of written papers, in bundles, which were found among the papers of the testator, and were sworn to be all that were in the possession of the executor. The books and papers so produced were examined and arranged at my office, and a schedule or catalogue of them printed by agreement of counsel under my superintendence, and transmitted to each of the counsel engaged in the cause. A copy of the schedule is herewith returned, marked [B.]

I further report that, certain letters alleged to be in the handwriting of Matthias Aspden, the testator, were also produced at the hearings before me, by Benjamin Tilghman, esquire, of the following dates, viz:

1792.		Matthias Aspden	to	Abraham Liddon.
1793, Feb.	1.	Same	to	same.
" March	4.	Same	to	same.
" August	17.	Same	to	same.
" Sept.	10.	Same	to	same.
1791, March	18.	Same	to	Mrs. Mary Harrison.
1793, June	30.	Same	to	same.
1796, May	9.	Same	to	the president of the Bank of the United States.
1801, Feb.	26.	Same	to	same.
1803, June	1.	Same	to	same.
1804, Jan.	12.	Same	to	same.
" July	26.	Same	to	same.
1806, "	21.	Same	to	same.
" Sept.	16.	Same	to	same.
" "	"	Same	to	same.
1807, June	5.	Same	to	same.

1807, July, 31. Same to same.
" Aug. 15. Same to same.
1808, Feb. 23. Same to same.
" Oct. 31. Same to same.

And the following checks, alleged to have been drawn by the said Matthias Aspden, were also produced by Mr. Tilghman, viz:

1816, Jan. 18. M. Aspden on Stephen Girard, banker.
" " 19. Same on same.
" Feb. 2. Same on same.
" April 16. Same on same.
" May 18. Same on same.
" " 31. Same on same.
" July 1. Same on same.
" " 11. Same on same.
" " " Same on same.
" Aug. 15. Same on same.
" " " Same on same.
" Dec. 27. Same on same.

And the following papers, alleged to be in part or wholly in the handwriting of the said Matthias Aspden, were produced by John L. Newbold, esquire, viz:

1776, March 23. Power of attorney, M. Aspden to J. Hartley and J. Cooper.
1782, Dec. 12. Letter, M. Aspden to ———
1791, Feb. 27. " Same to James Hartley.
" March 18. " Same to same.
1793, Sept. 21. " Same to James Hartley, jr.
1794, July 14. " Same to same.
1804, Aug. 7. " Same to same.

Also a letter purporting to be addressed to Matthias Aspden by J. Warder, dated the 5th of April, 1776.

The several books and papers so produced by the defendant, and by the said counsel, were examined at my office at divers meetings held for the purpose; and the deposition of Mr. Joseph Roberts, in respect to the handwriting of the testator to certain of the said papers, and on certain entries in the said books, was taken by me.

I further report that, in pursuance of the agreement of the several counsel, dated the 9th day of November, 1836, and made an order of the court on the 12th of December following, by which certain of the said papers and documents were ordered to be printed under my direction, I arranged the said papers and documents in chronological order, and superintended the printing of the same in a paper book.

A schedule of the papers and documents so ordered to be printed is returned with this my report, marked [C.]

I return also a copy of the said printed book, which is marked [D.]

And I also return, with this report, the depositions of the following

named witnesses, examined before me, viz., Elizabeth Hinchman, William Jefferies, Jacob Wollohon, John W. Balderston, and Joseph Roberts. And I report that the testimony of Jacob Wollohon was objected to by some of the parties who attended before me, on the ground of his being interested in the event of the cause.

All which is respectfully submitted.

T. I. WHARTON,
Master.

Philadelphia, September 18th, 1837.

I certify that notice has been given to the solicitors of the respective parties that my report was signed, and that no exception has been filed with me thereto, and that ten days have elapsed since the said notice was given.

T. I. WHARTON,
Master.

September 30th, 1837.

EXHIBIT [A.]

PACKER
vs.
NIXON.

Depositions of witnesses produced, sworn or affirmed, and examined in a certain cause depending in the circuit court of the United States, in and for the district of Pennsylvania, in the third circuit, wherein Samuel Packer is complainant, and Henry Nixon, executor of the will of Matthias Aspden, deceased, is defendant, before Thomas I. Wharton, a master of the said court, at his office, in the city of Philadelphia, on the 13th day of September, A. D. 1836, and on divers subsequent days, pursuant to an order of the said court, dated the 23d day of May, A. D. 1836, to wit:

ELIZABETH HINCHMAN, of Moorestown, in the State of New Jersey, widow, aged about seventy years, being produced and affirmed on the part of Hannah White and others, deposes as follows:

I am the widow of John Hinchman. He has been dead as much as fifteen years. His children were—1st, Hannah, married to Joseph White, both living; 2d, Elizabeth, married Thomas Hollinshed; he is dead, she is a widow; 3d, Ann Hinchman, unmarried; 4th, John Hinchman, also living; 5th, William, also living; 6th, Jacob, also living; 7th, Catharine, married to Joseph Heritage, both living; 8th, Rebecca, married to Benjamin Thomas.

ELIZABETH HINCHMAN.

Deposition taken, reduced to writing, and by the witness subscribed and affirmed to, this thirteenth day of September, A. D. 1836, before me.

T. I. WHARTON,
Master.

WILLIAM JEFFERIES, of the city of Philadelphia, laborer, a black man

aged about seventy-one years, a witness produced on the part of George Harrison and others, being duly sworn, deposeth as follows:

I resided with the late Matthias Harrison at the time of his death as coachman, and laid him out. He resided at the time in Front, below Walnut street. He had a country place on the Ridge road above Turner's lane, opposite Mr. Esher's, and just above Mr. Nixon's place. I had lived with him as coachman about three or four years, to the best of my recollection. I was not well acquainted with Matthias Aspden, but recollect him well: had some conversation with him once or twice; once in particular. The conversation arose in a kind of a way, the gentleman being very familiar. He asked me how long I had lived with Mr. Harrison, and I told him, and he seemed very glad of it. He hoped I would continue with him, and thought I could not better myself. He said he had been out of this country and in it, and it was the best country that he had ever been in; and he wished, or desired, I don't know which, to die or lay his bones in this country. This conversation took place in the garden, out of town, on the Ridge road. Can't say exactly how long this was before Mr. Harrison died. Mr. Harrison died in June, in the height of hay-making. I can't recollect exactly. It certainly was within two years of his death; that is, of Mr. Harrison's death. I recollect bringing Mr. Aspden once to town from Mr. Harrison's in a chair. To my recollection, I brought him to a tavern in Market street, above Sixth, between Sixth and Seventh streets. Think it was the sign of the Red Lion. I am distinct in my recollection of what he said about laying his bones here. He spoke to me about my freedom; said he supposed I was a free man, and I said I was. I reside now in Bonsall street, between Ninth and Tenth, and Lombard and South, second door from Tenth. He appeared to be glad I was free. I told him how I came to be free. I think I was weeding strawberries, or at the asparagus bed, when he spoke to me. It has been a considerable time since I lived in Mr. Harrison's family. I lived with them altogether, before and since Mr. Harrison's death, better than six years. I do not live there now, but I am working for Mrs. Harrison—Mrs. M'Murtrie; it is the same thing. I am employed by them in whitewashing and cleaning the house. When they want anything of the kind done, they always send for me as an old servant. I lived with Mrs. Scott some time; twice I lived there. At the first time, I think I lived there two or three years. Then I went to sea, and came back again, and lived with her one or two years. I was in the employ of Mr. Charles C. Watson not less than five years. I was employed by him to carry out clothes, and as a porter. I never thought of this conversation with Mr. Aspden from the time until about a week or ten days ago, when I met you (Mr. Tilghman) in the street. You asked me if I had lived with Mr. Harrison, and I told you that I did. You asked me if I recollected Mr. Aspden, and I told you I did. You asked me if I had had any conversation with him, and I told you I had. He asked me when and where, and I told him the amount of the conversation, and that it was in the garden; but as to the day and

date, that I had no knowledge of it. None of Mr. Harrison's family had ever before this spoken to me about this matter, neither do I think they knew any such conversation had taken place between Mr. Aspden and myself. I never heard of Mr. Aspden's death until Mr. Tilghman told me of it.

Being cross examined on the part of John Aspden, of Lancashire, the witness says:

My memory is tolerably well, considering my age. I remember things formerly better than recent things. This conversation happened a considerable time ago, but I cannot pretend to say how long ago. It was before Mr. Harrison's death, and he has been dead several years. The conversation was while he was walking up and down the garden. It might have been half an hour. We were talking about my freedom, and that took up a good deal of time. Lawyer Tilghman and Mr. Gibbs were spoke of. I told him we got our freedom by a gentleman of the name of Mr. John Gibbs, who set my grandmother free. I was not walking up and down with him. I did not take that liberty with him. I was weeding, and kept to my work in part. An old man, named Francis, our gardener, was also at work in the garden at the time. He did not express any sorrow at not being able to lay his bones here. I recollect his being at Mr. Harrison's once or twice that summer. Mr. Aspden was very sociable and friendly with Mr. Harrison; at least it appeared so to me, as the gentlemen were sitting and talking together. Can't tell how long before this conversation he had arrived in this country. I don't know when he came in, or when he went out of it. Can't tell how long before he had visited at Mr. Harrison's. I never saw him at Mr. Harrison's but twice, and that was out of town.

WILLIAM JEFFERIES.

Deposition taken, reduced to writing, and by the witness subscribed and sworn to, this twentieth day of September, A. D. 1836, before me.

T. I. WHARTON,
Master.

Samuel Champion, of Haddonfield, in the State of New Jersey, farmer, aged about seventy-two years, being duly affirmed on the part of Aaron Zane and others, deposeth as follows:

Being affirmed on the voir dire, the witness says: I and my wife made a claim once to the money in this case; I have no interest now, I have transferred it all away; I assigned my interest in writing some time lately, within a few weeks; I can't recollect the exact time. [An instrument under seal, dated the 13th October, 1836, being produced and exhibited to the witness, he says]: I believe this paper to be the same executed by me on that occasion. [The paper is marked T. I. W., No. 1, October 26th, 1836.] My wife is dead; I have taken out letters of administration in New Jersey, which are in the possession of Mr. Davis, my attorney; I have also, as such administrator of my

wife's estate, assigned to the same persons the distributive share of my said late wife in the estate of Mr. Aspden, and I now acknowledge the paper produced to be that assignment. [The paper is marked T. I. W., No. 2, October 26th, 1836.]

[The witness was, in this stage of the examination, withdrawn by the party producing him.]

JACOB WOLOHON, of the city of Philadelphia, late farmer, aged about fifty-three years, a witness produced on behalf of John Zane and others, represented by Mr. Newbold and Mr. Tilghman, being first examined on the voir dire, answers as follows:

I claim part of the estate of Matthias Aspden as one of his next of kin; I have employed David Paul Brown, esq., as counsel to support my claim; my grandmother and Matthias Aspden's own mother were sisters; Mr. Brown was employed on my behalf at the time the depositions were taken by the present master in 1829.

(The examination of the witness in chief was objected to on the part of the English claimants.)

Being sworn in chief, the witness deposes as follows: I knew the late Matthias Aspden; I did see him, and talked to him once; I saw him in Haddonfield, when I lived at Chew's landing, and kept tavern; this was in June, 1816; I fix the time by the license I got for keeping tavern in 1816; I removed from Lawyer White's place to Chew's landing the next spring after the peace; I went to Mr. Aspden and spoke to him; he asked me who I was; I said I was the son of Sarah Wolohan, who was daughter of George Hammet; he asked me if Sarah Wolohan was living; he said she was a little girl when he first went to England; I told him she was not living; that two weeks before I had buried her in Haddonfield burying ground; he said he wished he could have seen her before she died; he asked me which of the family was living; I told him Aunt Rhody Whitton was living, and Uncle John Hammett; he asked me the names of others, if they were living; I said no, there were no others living, except those; he asked me where they lived; I told him they lived where they always had lived; he said he wanted to go back to England and settle his business, and would then come back to this country, and lay his bones with his parents; he said it would not be a great while before there will be a good deal to divide among you; he said no more upon the subject; this is as near as I can recollect what he told me; he appeared to be a very old man then. There was no one else by at the time. It took place near the blacksmith's shop where I had been getting some work done. I saw him sitting at the Mansion House in Market street, in this city, about two weeks afterwards. This was the last I ever saw of him.

(The foregoing deposition was taken, subject to the exception to the competency of the witness.) JACOB WOLOHON.

Deposition taken, reduced to writing, and by the witness subscribed and sworn to on this twenty-eighth day of December, A. D. 1836, before me. T. I. WHARTON, *Master*.

JOHN W. BALDERSTON, of Solesbury township, in the county of Bucks, farmer, aged about sixty-two years, a witness produced and affirmed on the part of Roger Hartley and others, deposes as follows:

I knew Roger Hartley, of Solesbury township, as far back as I can recollect any body. I was born in 1775. He was a blacksmith, residing on a lot contiguous to my father's farm. I was frequently sent to his shop as soon as I was able to go. He removed from the neighborhood previous to 1785. I understood that he went to Lancaster or Chester county. I knew several of his children, viz., Roger, Peter, Jane, and Rebecca. I think there were only two daughters. The name of the first daughter was either Jane or Jannet. She was commonly called Jenny. She went to Canada, and died single. Her sister Rebecca intermarried with a certain Mahlon Doane, and went with him to Canada about the year 1808, '9, or '10. I believe they are both living. There were other sons of Roger Hartley, (the blacksmith.) I think there was a James and Benjamin. I can't say that I recollect a Thomas or John, but I know there were others, and think it likely they were out apprentices to some trade, so that I saw little of them. Roger, the son of Roger, the blacksmith, is, I believe, still living at Redstone, near Pittsburgh, in this State. I don't recollect ever seeing Peter after he left the neighborhood with his father, and don't think I ever heard of him afterwards. I have heard, since the death of Matthias Aspden, that the father of Roger Hartley, the blacksmith, was also named Roger, and that his widow became the wife of Matthias Aspden, the father of Matthias Aspden, the testator. I have heard this from old persons in the neighborhood, not connected with or related to the Hartleys. I meant to say that I have heard, and believe, that Jane or Jannet Hartley died single in Canada. I do not know the fact of my own knowledge.

(No cross examination.) JOHN W. BALDERSTON.

Examination taken, reduced to writing, and by the witness subscribed and affirmed to, this twenty-first day of April, 1837, before me.

T. I. WHARTON, *Master*.

JOSEPH ROBERTS, of the city of Philadelphia, late cashier of the Bank of Stephen Girard, aged about sixty-one years, a witness produced and sworn on the part of certain of the next of kin, deposes as follows:

I was acquainted with the late Matthias Aspden, the testator in this cause. I have seen him write, and have had frequent opportunities of seeing and becoming acquainted with his handwriting. I have viewed and examined the papers now to be mentioned, and verily believe them to be in the proper handwriting of the said Matthias Aspden, to wit:

A paper marked A, No. 2, 4, being a letter from Matthias Aspden to Messrs. Robson and Gill, dated Orange street, Nov. 15th, 1804.

A paper marked A, No. 2, 17, being a memorial of Matthias Aspden, to the commissioners appointed by act of parliament to inquire into the losses and services of the American loyalists.

A paper marked A, No. 2, 21, being a letter from Matthias Aspden

to Messrs. Hugh and Alexander Wallace, dated Philadelphia, 6th May, 1776.

A paper marked A, No. 2, 26, being a memorial of Matthias Aspden to commissioners, &c.

A paper marked A, No. 2, 32, being an additional statement by Matthias Aspden to the commissioners.

A paper marked A, No. 2, 38, being a letter from Matthias Aspden, dated Whitehaven, 21st Oct., 1780.

The endorsement upon a paper marked A, No. 2, 42, being memorial of M. Aspden to commissioners, &c.

A paper marked A, No. 4, 66, 1; another paper marked A, No. 4, 66, 2; another paper marked A, No. 4, 66, 3; another paper marked A, No. 4, 66, 4. These four last papers being petitions or other documents respecting claims.

A paper marked A, No. 5, 2, being a letter from Matthias Aspden, dated London, 3d Jan., 1818.

A paper marked A, No. 5, 3, being a note from Matthias Aspden.

A paper marked A, No. 5, 4, being a letter from the same to Mr. Langdon Cheves, president of the Bank of the United States, dated London, 5th July, 1820.

A paper marked A, No. 5, 5, being a letter from the same to Mr. Nicholas Biddle, president of the Bank of the United States, dated London, 28th April, 1824.

A paper marked A, No. 5, 6, being a letter from the same to Langdon Cheves, president of the Bank of the United States, dated London, Feb. 10th, 1823.

A paper marked A, No. 5, 7, being a letter from the same to the president, directors & co., of the Bank of the United States, dated London, 31st Jan., 1818.

A paper marked A, No. 5, 8, being a letter from the same to Langdon Cheves, dated London, 28th July, 1820.

A paper marked A, No. 5, 9, being a letter from the same to Langdon Cheves, dated London, 7th May, 1819.

A paper marked A, No. 5, 10, being a petition of Matthias Aspden to the Commons of Great Britain, in parliament assembled.

A paper marked A, No. 5, 30, being a petition from Matthias Aspden to his majesty's honorable privy council.

A paper marked A, No. 5, 32, being a case stated for the opinion of Mr. Ingersoll.

A paper containing an answer by Matthias Aspden to a letter from Henry Hoare & Co., to him, dated 17th Nov., 1809, marked A, No. 5, 38.

A paper marked A, No. 5, 42, being a letter from Matthias Aspden to Messrs. John and Robert Barclay, dated 9th Oct., 1780.

The endorsement upon and copy of answer to a letter from Thomas Morris to Matthias Aspden, dated Philadelphia, 2d February, 1799. marked A, No. 6, 10.

A paper containing the copy of an answer to a letter from L. Cow-

per to Matthias Aspden, dated Bristol, 11th Oct., 1788, marked A, No. 7, 54.

A paper marked A, No. 7, 66, being a letter from Matthias Aspden, enclosing his will, bearing date the day of March, 1791.

A paper marked A, No. 7, 67, being an account of Matthias Aspden by himself, dated Clifton, near Bristol, July 18th, 1798.

A paper marked A, No. 7, 72, being a will of Matthias Aspden, cancelled by himself, dated 24th March, 1776.

A memorandum on a paper marked A, No. 8, 31, being a letter from G. Ellis to Matthias Aspden.

A paper marked A, No. 8, 63, being a memorandum of Matthias Aspden concerning himself.

A paper marked A, No. 9, 52, being a petition of Matthias Aspden.

A memorandum on a bill to Matthias Aspden, being the paper marked A, No. 9, 54.

A letter from Matthias Aspden, endorsed on a letter purporting from John Woodward, being the paper marked A, No. 9, 63.

A paper marked A, No. 9, 67, being questions by Matthias Aspden to Mr. Douglas.

A paper marked A, No. 9, 71, being a letter from Matthias Aspden to Captain Luscomb, dated Cork, August, 1798.

A paper marked A, No. 9, 72, being a letter from Matthias Aspden to Alderman Harley, dated Lower Brook street, 2d July, 1787.

A paper marked A, No. 9, 80, being a statement of Matthias Aspden to the Lord Chancellor, dated London, 18th December, 1798.

A memorandum at the foot of a letter from J. Galloway to Matthias Aspden, dated 20th September, 1786, being the paper marked A, No. 9, 81.

Certain notes by Matthias Aspden upon a bill against him, marked A, No. 9, 82.

A book marked B, No. 60, containing memorandums of accounts and copies of letters.

A book marked B, No. 61, containing a diary.

A book marked B, No. 62, containing quotations from the bible, and accounts.

A book marked B, No. 63, containing accounts and receipts.

A book marked B, No. 64, containing copies of letters and memorandums of accounts.

A parchment pocket-book marked B, No. 65, containing parts of a journal and accounts.

A book marked B, No. 69, containing "a case stated," with letters to sundry persons.

A book marked B, No. 70, containing letters to sundry persons.

A book marked B, No. 71, containing letters to sundry persons.

The handwriting on the leaf between the Old and New Testament, containing a record of births, marriages, &c., in a large bible, marked B, No. 72.

Certain pages in a book marked B, No 73, being a letter book, to

wit, the part beginning with the date of 28th April, 1792, and extending to the year 1804, and identified at the beginning and end with the initials of this deponent's name, viz., J. R.

The handwriting in a pocket almanac, marked A, No. 15.

The handwriting in folio 75 of a ledger or book, marked A, No. 24; which handwriting is headed "State of Pennsylvania, Dr.," and "Kingdom of Great Britain, Dr."

A letter from Matthias Aspden to Abraham Leddon, without date, endorsed B. T., No. 1.

A letter from the same to the same, dated London, February —, 1793, endorsed B. T., No. 2.

A letter from the same to the same, dated London, March 4, 1793, marked B. T., No. 3.

A letter from the same to the same, dated Bristol, August 17th, 1793, marked B. T., No. 4.

A letter from the same to the same, dated London, September 10th, 1798, marked B. T., No. 5.

A letter from the same to the same, dated London, February 1st, 1793, marked B. T., No. 6.

A letter from Matthias Aspden to Mrs. Mary Harrison, dated London, March 18th, 1791, marked B. T., No. 7.

A letter from the same to the same, dated London, June 30th, 1793, marked B. T., No. 8.

The signature to a power of attorney from Matthias Aspden to James Hartley and Jacob Cooper, dated 23d March, 1776, marked J. L. N., No. 1.

A letter from Matthias Aspden, dated London, December 12th, 1782, beginning "dear brother," marked J. L. N., No. 2.

A letter from Matthias Aspden to Mr. James Hartley, dated London, February 2, 1791, marked J. L. N., No. 3.

A letter from the same to the same, dated London, March 17, 1791, marked J. L. N., No. 4.

A letter from the same to James Hartley, jun., dated London, September 21, 1793, marked J. L. N., No. 6.

A letter from the same to the same, dated London, July 14, 1794, marked J. L. N., No. 7.

A letter from the same to the same, dated London, August 7, 1804, marked J. L. N., No. 8.

The signature to nine checks upon the Bank of the United States, dated December 27, 1816; August 15, 1816; August 15, 1816; July 11, 1816; July 11, 1816; July 1, 1816; February 2, 1816; January 19, 1816; January 18, 1816.

JOSEPH ROBERTS.

Exhibit B.

PACKER vs. NIXON. } Circuit court. In equity.

List of letters and papers belonging to the estate of Matthias Aspden, produced by the executor at the master's office, on the 21st of September, 1836.

Package marked A, No. 1, contains as follows:

1. Letter from Chas. Biddle to Mathias Aspden, dated Phila., 15th May, 1799.
2. Letter from Henry Hoare & Co. to M. Aspden, dated London, 8th December, 1801.
3. Letter from H. Hoare & Co. to M. Aspden, dated London, 14th Nov., 1801.
4. Letter from same to same, dated 22d Feb., 1802.
5. Letter from V. Cotes to same, dated Lincoln, 23d Jan., 1801.
6. Letter from Henry Hoare & Co. to same, dated London, 11th March, 1801.
7. Letter from same to same, dated London, 27th Jan., 1802.
8. Letter from same to same, dated London, 11th May, 1802.
9. Letter from same to same, dated London, 30th Jan., 1802.
10. Letter from same to same, dated London, 11th Nov. 1801.

The above letters are all directed to "Mathias Aspden, esq., Richmond, Surrey."

The package marked A, No. 2, contains as follows:

1. Letter from Mr. Langdale to Mathias Aspden, No. 5, Orange street, Red Lion square, dated New Ormond street, 18th Aug., 1804.
2. Letter from Thos. Morris to same, to the care of Hoare & Co., London, dated Phila., 9th month 16th, 1805.
3. Letter from Math. Wink to same, Orange street, dated Office for Taxes, 10th March, 1808.
4. Letter from Mathias Aspden to Messrs. Robson & Gill, dated Orange street, Nov. 15th, 1804.
5. Letter from D. Clymer to M. Aspden, dated Lancaster, 21st Jan., 1806.
6. Letter from B. Chew to same, 144 North 3d street, dated Walnut street, 26th March, 1792.
7. Letter from John Chorley to same, dated Liverpool, 2d May, 1808.
8. Letter from Hoare & Co. to same, dated London, 28th August, 1807.
9. Letter from G. Harrison to same, care of Hoare & Co., London, dated Phila., 4th Jan., 1799.
10. A paper endorsed Aspden & Cowper, Drs. case for arbitration.
11. Another paper endorsed Aspden & Cowper, Drs. case for arbitration.
12. "A statement of claims examined by the commissioners for inquiring into the losses and services of the American loyalists," &c.
13. Letter from Mary Aspden to Math. Aspden, from his daughter, dated Cliffordshire, 10th May, 1794.

14. Letter from Jn. De Normandie to same, dated Church street, London, 9th Sept., 1782.
15. Mathias Aspden's account with Sherry & Saunderson, dated 17th June, 1777.
16. Letter from W. Whitpaine to M. Aspden, dated 16th April, 1782.
17. Memorial of M. Aspden to the commissioners appointed by act of parliament to inquire into the losses and services of the American loyalists.
18. Letter from Isaac Fletcher to Mr. Aspden, dated Underwood, 29th Sep., 1779.
19. Letter from Lord Lansdown to same, dated Lansdown House, March 8th.
20. Letter from Wm. Tryon to the hon'ble commissioners, dated London, 13th Feb., 1787.
21. Letter from M. Aspden to Messrs. Hugh & Alexander Wallace, dated Phila., 6th May, 1776.
22. Letter from Chas. Monro to M. Aspden, dated American office, 6th Oct., 1788.
23. Letter from Mr. Pigere to same, dated Birners street, 2d Dec., 1789.
24. A list of prices.
25. Letter from Rob. & Sam. Hilbert to same, dated March 20th, 1788.
26. Memorial of M. Aspden to commissioners, &c.
27. Letter from J. Galloway to Ms. Aspden, dated Cotham Lodge, 3d July, 1786.
28. Letter from W. Sheperd to same, dated Boswell Court, 22d Dec., 1789.
29. Bond of award. Mr. Lant. Cowper to Matthias Aspden, dated 26th March, 1791.
30. Letter from S. W. Stockton to same, dated London, 13th Feb., 1777.
31. Letter from B. Stockton to same, dated Phila., 1st Sept., 1776.
32. Additional statement by M. Aspden to the commissioners.
33. Letter from John Warder to M. Aspden, dated London, 6th mo., 28th, 1790.
34. Letter from J. & R. Barclay to same, dated London, 14th Oct., 1780.
35. Letter from S. W. Stockton to same, dated London, 6th Feb., 1777.
36. Statement of matter of difference between Mr. Aspden and Mr. Sanders Cowper.
37. Letter from R. Barclay to M. Aspden, dated 13th July, 1791.
38. Letter from M. Aspden, dated Whitehaven, 21st Oct., 1780.
39. Letter to same, dated Falmouth, 22d June, 1790.
40. Letter to same, dated office of American Claims, 23d June, 1786.
41. Letter from Mr. Cowper, (with Mr. Touchet's opinion,) to M. Aspden, dated Bristol, 3d March, 1791.

42. Memorial of M. Aspden to commissioners, &c.
43. Letter from Matthias Aspden to the judge of the court sitting in Fullwood Rents, 9th March, 1796.
44. Letter from J. Galloway to Matth. Aspden, dated Cotham Lodge, 6th Sept., 1786.
45. Letter from H. Kuhl to same, dated Bank U. States, 5th Sept., 1803.

The package marked A. No. 3, contains as follows :

1. Letter from G. Pengani to M. Aspden, dated Paris, 4th Nov., 1803.
2. Letter from Thos. Morris to M. Aspden, dated Phila., 11th mo., 5th, 1794.
3. Letter from same to same, dated Phila., 9th mo., 11th, 1795.
4. Letter from H. Kuhl to same, dated Bank U. States, 7th August, 1800.
5. Letter from same to same, dated Bank U. States, 25th July, 1796.
6. Letter from same to same, dated Bank U. States, 31st Oct., 1800.
7. A paper addressed to the editor of the Morning Chronicle, without date.
8. An act for appointing commissioners, &c.
9. A plan of the estate of Mr. Joseph Harrison at Phila., lying in Seaton.
10. Letter from S. Douglas to M. Aspden, dated Lincoln, 20th June, 1785.
11. Letter from H. Hoare to M. Aspden, dated London, 26th Sept., 1795.
12. Letter from same to same, dated London, 30th July, 1795.
13. Letter from L. Cowper to same, dated Bristol, 13th April, 1780.
14. Invoice of sundries shipped on board the Cumberland, 1777.
15. An account of M. Aspden with L. Cowper, 1777.
16. Disbursements for ship Cumberland, from 24th April to 23d May, 1776.
17. Account of Laton Albro.
18. Account of Laton Albro.
19. L. Cowper's account.
20. L. Cowper's account.
21. Charry & Sanderson's account.
22. Account of ship Nancy's disbursements.
23. Letter from L. Cowper to Mathias Aspden, dated Bristol, 18th March, 1790.
24. Letter from H. Hoare & Co. to same, dated London, 6th Sept., 1796.
25. Letter from same to same, dated London, 19th July, 1798.
26. Letter from same to same, dated London, 28th July, 1795.
27. Letter from same to same, dated London, 19th Sept., 1798.
28. Letter from same to same, dated London, 2d July, 1798.
29. Letter from same to same, dated London, 16th July, 1790.
30. Letter from same to same, dated London, 5th August, 1802.
31. Letter from same to same, dated London, 9th February, 1803.

32. Letter from same to same, dated 5th August, 1819.
33. Letter from R. Simpson to same, dated London, 27th Feb., 1797.
34. Agreement between Matthias Aspden and Isaac Fletcher, dated 9th October, 1780.
35. Letter from Joseph Harrison to Matthias Aspden, dated Philadelphia, 3d October, 1786.
36. Letter from same to same, dated Philadelphia, 1st May, 1786.
37. Letter from same to same, dated Philadelphia, 17th October, 1783.
38. Letter from same to same, dated Philadelphia, 5th Dec., 1789.
39. Letter from James Hartley to Matthias Aspden, dated Philadelphia, 16th December, 1785.
40. Letter from Joseph Harrison to same, dated Philadelphia, 30th June, 1786.
41. Letter from Rev. W. White to Matthias Aspden, dated Philadelphia, 1st October, 1782.
42. Letter from Joseph Harrison to same, dated Philadelphia, 13th December, 1783.
43. Letter from Joseph Harrison to same, dated Philadelphia, 6th May, 1786.
44. Letter from Joseph Harrison to same, dated Philadelphia, 12th May, 1785.
45. Letter from Joseph Harrison to same, dated Philadelphia, 21st April, 1785.
46. Letter from Samuel Provoost to same, dated New York, 15th May, 1789.
47. Letter from Joseph Harrison to same, dated Philadelphia, 2d Oct., 1784.
48. Letter from Rev. W. White to same, dated Philadelphia, 1st Oct., 1781.
49. Letter from Joseph Harrison to same, dated Philadelphia, 9th May, 1785.
50. Letter from same to same, dated Philadelphia, 19th Dec., 1785.
51. Letter from same to same, dated Philadelphia, 7th Dec., 1785.
52. Letter from same to same, dated Philadelphia, 5th May, 1786.
53. Letter from same to same, dated Philadelphia, 2d Nov., 1786.
54. Letter from same to same, dated Philadelphia, 6th May, 1786.
55. A petition of sundry citizens of Pennsylvania to the President and the members of the Supreme Executive Council of Pennsylvania, in behalf of Matthias Aspden.
56. Letter from J. Wharton to Matthias Aspden, dated Philadelphia, 9th January, 1778.
57. Letter from W. White to same, dated Philadelphia, 21st July, 1781.

The package marked A, No. 4, contains as follows:

1. Matthias Aspden's account with William Bradford.
2. M. Aspden's account with the same.
3. The same with the same.
4. The same with the same.

6, 7, 8, 9, are also accounts with the same.
10. Matthias Aspden's account with Kid & Bradford.
11, 12, 13, 14, 15, 16, are accounts between Matthias Aspden and Berwickes, Timerman & Morgue, at Cadiz.
17, 18, 19, Matthias Aspden's accounts with Berwickes & Morgue, London.
20, 21, 22, 23, M. Aspden's accounts with B. & C. Bewicke, London.
24. Letter from Berwickes, Timerman & Morgue to M. Aspden, dated Cadiz, 8th Sept., 1775.
25. Letter from Bewickes & Morgue to M. Aspden, dated Cadiz, 6th Dec., 1776.
30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, are accounts with, or letters to, Matthias Aspden, from Hoare & Co.
58. An extract from an act of parliament.
59. Letter from Mr. Everet to Matthias Aspden.
60. List of balances taken from M. Aspden's leger, which appeared due him.
61. An act of parliament for establishing regulations respecting aliens arriving in England.
62. Letter of introduction from S. Gest for M. Aspden to Mr. John Granburg, merchant, Norfolk, Virga., dated 19th July, 1798.
63. A memorial of Matthias Aspden to House of Representatives.
64. Is a paper headed "A short narrative of facts."
65. Letter from S. Cowper to M. Aspden, dated Bristol, 13th April, 1782.
66. Petitions and papers from Matthias Aspden, respecting claims.
67. Letter from Hoare & Co. to M. Aspden, dated London, 12th July, 1798.
69. Letter from Charles Long to same, dated Treasury Chambers, 19th April, 1794.
70. Letter from Lord Lansdown to Dr. White, dated Lansdown House, 8th Feb., 1787.
71. A card on which is some writing, without signature or date.
72. A receipt from Thos. Aspden and others, for several legacies left them by M. Aspden, dated the 2d day of August, 1766.
73. A paper containing dates of the births of sundry persons, (Hartleys.)
74. Passport for Matthias Aspden in England, dated 12th of Sept., 1798.
75. Passport for same to go to America, dated 17th of July, 1798.
76. Passport for same, 1800.
77. Passport for same, dated 15th Oct, 1802.
78. Letter from Mr. Blake to M. Aspden, dated 5th May, 1804.
79. Deposition, Lancelot Cowper, in chancery, dated Bristol, 22d Feb., 1791.
80. Letter from J. G. Saggers to M. Aspden, dated 5th Jan., 1805.
81. Letter from Mr. Roberts to same, dated Gloucester, 18th Nov., 1804.

82. Letter from J. G. Saggers to same, dated 8th Jan., 1805.
83 and 84. Letters from J. Walkins to same, dated Office for Taxes, 21st Nov., 1806.
85. Letter from J. Hartley to same, dated Phila., April 28th, 1787.

The package marked A, No. 5, contains as follows:

1. Pardon for treason, dated the 18th of April, 1786.
2. Letter from Matthias Aspden, London, 3d Jan., 1818.
3. Note by same.
4. Letter from same to Mr. Langdon Cheves, pres. Bank of U. S., dated London, 5th July, 1820.
5. Letter from same to Mr. N. Biddle, president of Bank of U. S., dated London, 28th April, 1824.
6. Letter from same to L. Cheves, president Bank of United States, dated London, Feb. 10th, 1823.
7. Letter from same to the president, directors, and company of Bank U. S., dated London, 31st Jan., 1818.
8. Letter from same to Langdon Cheves, dated London, 28th July, 1820.
9. Letter from same to same, dated London, 7th May, 1819.
10. A "Petition of Matthias Aspden's to the Commons of Great Britain in parliament assembled."
11. Letter from Chas. Biddle to M. Aspden, dated Phila., 19th Feb. 1789.
12. Statement of the reports made by the commissioners for inquiring into losses of American loyalists, &c.
13. Letter from to B. & C. Bewicke, dated Phila., 1st Oct., 1775.
14. Letter from E. & R. Puller to M. Aspden, dated London, 26th May, 1785.
15. Notice to attend at the office of American claims, to M. Aspden, Lincoln's Inn fields, 1784.
16. Letter from Joshua Fisher and Sons to M. Aspden, dated Phila., 17th September, 1776.
17. Letter from Henry Season to same, dated
18. Letter from Thos. Ovey to same, dated May 23d, 1785.
19. Letter from Rt. Hankey to same, dated London, 11th Nov., 1785.
20. Letter from John Touchet to same, dated Inner Temple, 25th Jan. 1791.
21. Letter from Jos. Harrison to same, dated Phila., 12th May, 1785.
22. Letter from H. Hall to same, dated London, July 30th, 1787.
23. Letter from G. A. Gibbon to same, dated Boswell court, 14th Jan., 1790.
24. Prices of goods fit for the American market.
25. Letter from dated Burlington, 2d Aug., 1785.
26. Letter from John Close to M. Aspden, dated Tower hill, 1st Nov., 1780.
27. Certificate from John Nutt, dated London, 20th Feb., 1787.

28. Letter of introduction from James Campbell to A. Campbell, dated 29th April, 1776.
29. Letter from Caverley Berwicke to M. Aspden, dated London, 15th Dec., 1785.
30. M. Aspden's petition to his majesty's honorable privy council.
31. Letter from S. Hebbert to M. Aspden, dated Manchester, 18th March, 1785.
32. Case stated for the opinion of Mr. Ingersoll.
33. Letter from S. Douglas to Math. Aspden, dated 30th Nov., 1785.
34. Letter from Wm. White to same, dated Phila., 23d May, 1790.
35. Letter from John Sagar to same, dated Simonstone ⋈, 7th Nov., 1788.
36. Letter from John Taylor to same, dated Tax office, 18th Nov.
37. The governor of the Bank of England's letter to M. Aspden, dated 10th Nov., 1809.
38. Letter from Henry Hourcole to same, dated London, with answer, 17th Nov., 1809.
39. Letter from Mr. Daiwes to same, dated Bank of England, 31st July, 1810.
40. Letter from Rippon to same, dated Chief Cashier's office, Bank England, 13th Aug., 1810.
41. Letter from Wm. Dawes to Maths. Aspden, dated Bank of England, 13th July, 1810.
42. Letter from Matths. Aspden to Messrs. John & Rt. Barclay, dated 9th Oct., 1780.
43. Letter to Maths. Aspden from Geo. Harrison.
44 Letter from Jos. Harrison to Maths. Aspden, dated Phila., 21st Sept., 1781.
45. Letter from Jos. Harrison to same, dated Phila., 22d July, 1781.
46. Letter from same to same, dated Phila., 22d May, 1784.
47. Letter from same to same, dated Phila., 11th March, 1780.
48. Letter from Isaac Hazlehurst to same, dated Amsterdam, 28th August, 1781.
49. Letter from Jos. Harrison to same, dated Phila., 8th October, 1784.
50. Letter from same to same, dated Phila., 5th Nov., 1783.
51. Letter from same to same, dated Phila., 29th Nov., 1783.
52. Letter from Abijah Dawes to same, dated Antigua, 20th July, 1777.
53. Letter from James Touchet to same, dated Manchester, 7th Feb., 1777.

54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, are letters from Benj. and E. Bewicke.

Package marked A. No. 6, contains as follows:

1. Letter from John Fry & Co. to Mathias Aspden, dated South st., 9th Jan., 1798.

2. Letter from Francis Baring & Co. to same, dated London, 27th Nov., 1800.
3. Letter from same to same, dated London, 26th Sept., 1796.
4. Letter from same to same, dated London, 20th Sept., 1800.
5. Letter from same to same, dated London, 4th April, 1801.
6. Letter from same to same, dated London, 24th July, 1800.
7. Account of same to same.
8. Letter of same to same, London, 24th Dec., 1800.
9. Letter from same to same, dated London, 1st May, 1800.
10. Letter from Thomas Morris to Maths. Aspden, dated Philadelphia, 2d February, 1799.
11. Letter from W. Dawes to M. Aspden on one side of a sheet of paper, and on the other a part of a letter by Mathias Aspden to Mr. Coates, dated Bank England, 25th March, 1801.
12. Letter from Francis Baring & Co. to M. Aspden, dated 17th Dec., 1800.
13. Protest of Maths. Aspden's bill by the Bank of the United States, dated Philadelphia, 28th July, 1800.
14. Cashier of Bank U. States to M. Aspden, dated Bk. U. States, 31st October, 1800.
15. Letter from Henry Kuhl, ass. cashier, to same, dated Bk. U. States, 7th August, 1800, together with a protest of Mathias Aspden's bill by the Bank N. America, 28th July, 1800.
16. Letter from Thos. Morris to Mats. Aspden, dated Philadelphia, 9th September, 1795.
17. Letter from Francis Baring to same, dated Devonshire square, 30th April, 1800.
18. Certificate of American stock, No. 8030, with extract of letter of att'y and certificate from J. Robert Robson, of London, &c., dated London, 26th Feb., 1796.
19. Letter from Henry Kuhl to Maths. Aspden, dated Bank U. States, 15th Nov., 1796.
20. Letter from same to same, dated same.
21. Letter from J. Sims to same, dated Philadelphia, 4th Nov., 1794.
22, 23, 24, 25, are M. Aspden's insurance accounts with J. Sanders, in the years 1773, '74, and '76.
26, 27, 28, 29, are M. Aspden's insurance accounts with J. and F. Wharton, in the years 1773, '74, and '76.
30. Letter from James Hartley to M. Aspden, dated Philadelphia, 18th October, 1783.
31. Letter from same to same, dated Philadelphia, 7th Nov., 1783.
32. Pardon, copy, from the supr'e exe've council of Penna. for M. Aspden, Philadelphia, 18th April, 1786.
33. Letter from J. Hartley to M. Aspden, dated Philadelphia, 27th February, 1790.
34. Letter from Chas. Biddle to same, dated Philadelphia, 23d April, 1786.

35. Letter from James Hartley to same, dated Philadelphia, September, 1783.
36. Letter from James Hartley to same, dated Philadelphia, 8th July, 1783.
37. Same same to same same, 9th Oct. 1794.
38. Same same to same same, 29th April, 1786.
39. Same same to same same, 26th Feb., 1785.
40. Same same to same same, 24th May, 1790.
41. Same same to same same, 31st Oct., 1889.
42. Same same to same same, 1st April, 1776.
43. Same same to same same, 7th April, 1783.
44. Same same to same same, 3d June, 1786.
45. Same same to same same, 16th Sept., 1786.
46. Same same to same same, 26th Aug., 1783.
47. Same same to same same, 21st April, 1784.
48. Same same to same same, 15th May, 1784.
49. Inventory of furniture in house at Philadelphia.
50. Letter from James Hartley to M. Aspden, dated Philadelphia, 3d June, 1786.
51. Same same to same same, 29th Oct., 1784.
52. Same same to same same, 26th May, 1789.
53. Same same to same same, 20th Nov., 1782.
54. Same same to same same, 29th Sept., 1783.
55. Extracts from minutes in council relating to M. Aspden's pardon, dated Phila., 19th Jan., 1786.
56. Letter from James Hartley to Maths. Aspden, dated Phila., 14th June, 1784.
57. Inventory of sundry articles of furniture.
58. Copy of protested Bill of Exchange.
59. Letter from George Corrie to Maths. Aspden, dated Black river, 17th June, 1778.
60. Letter of Attorney from James Hartley to M. Aspden, dated Phila., 9th April, 1783.

Package marked A, No. 7, contains as follows:

1. Letter from Abraham Liddon to M. Aspden, advising respecting his estate in America, dated Phila., 4th April, 1793.
2. Maths. Aspden's account with Sharry and Sanderson, 1777.
3. Letter from Schweighausen & Dobree to M. Aspden, dated Nantes, 4th May, 1780.
4. Letter from Jacobus & Johanes Vandewall & Co. to same, dated Amsterdam, 19th of Nov., 1779.
5. Letter from H. Hattencamp to M. Aspden, dated Corunna, 25th March, 1778.
6. Letter from Hugh Wallace to same, dated N. York, 20th May, 1766.
7. Letter from Jacobus & Johanes Vandewaller & Co. to same, dated Amsterdam, 18th Jan., 1780.

8. Same from same to same, dated same, 28th Aug., 1778.
9. Letter from Grand & Co. to same, dated Phila., 17th Feb., 1791.
10. Letter from Van Egmont & Son to same, dated Rotterdam, 4th Aug., 1778.
11. Letter from Wm. Priddie to same, dated St. Kitts, 15th June, 1777.
12. Letter from same to same, same, same.
13. Letter from Beekman & Beyer to same, dated Gottenburg, 24th July, 1784.
14. Letter from Henry Kuhl to same, dated B. U. States, 25th July, 1796.
15. Letter from Sherry & Sanderson to same, dated St. Kitts, 15th March, 1778.
16. Letter from same to same, dated same, 1st May, 1778.
17. Letter from same to same, dated St. Christopher's, 11th Dec., 1778.
18. Letter from Walter Franklin to same, dated New York, 6th March, 1778.
19. Letter from same to same, dated same.
20. Letter from Wombwells's & Arrabelty & Co. to same, dated Barcelona, 17th May, 1775.
21. Letter from Limozin to same, dated Havre De Grace, 1st Feb., 1777.
22. Letter from Abm. Liddon to same, dated Phila., 24th Nov., 1792.
23. Letter from Hugh & Alexander Wallace to same, dated New York, 10th July, 1777.
24. Letter from Limozin to same, dated Havre de Grace, 8th April, 1776.
25. Letter from Hugh Wallace to same, dated New York, 13th May. 1776.
26. "Terms and Conditions of a National Light and Heat Company."
27. A supplementary act making provision for the redemption of the public debt of the United States.
28. Letter from Lancelot Cowper to M. Aspden, dated Bristol, 21st January, 1779.
29. Letter from same to same, dated Bristol, 22d March, 1780.
30. Letter from same to same, dated Bristol, 4th March, 1780.
31. Letter from same to same, dated Bristol, 27th June, 1778.
32. Letter from same to same, dated Bristol, 23d March, 1790.
33. Letter from same to same, dated St. Kitts, 15th June, 1777.
34. Letter from same to same, dated Bristol, 26th Nov., 1782.
35. Account of owners of ship Cumberland with Laton Albro.
36. Letter from L. Cowper to M. Aspden, dated Exeter, 1st June, 1781.
37. Letter from L. Cowper to same, dated Bristol, 5th Feb., 1783.
38. Letter from same to same, dated Bristol, 11th Jan., 1790.
39. Letter from same to same, dated Bristol, 5th Feb., 1778.
40. Letter from same to same, dated Bristol, 30th June, 1781.
41. Letter from same to same, dated Bristol, 30th March, 1782.

42. Letter from same to same, dated Bristol, 29th Jan., 1783.
43. Letter from same to same, dated Bristol, 26th March, 1790.
44. Letter from same to same, dated Bristol, 11th March, 1790.
45. Letter from same to same, dated Bristol, 8th July, 1791.
46. Letter from same to same, dated Bristol, 6th July, 1791.
47. Letter from same to same, dated Bristol, 8th March, 1790.
48. Letter from same to same, dated Bristol, 29th April, 1790.
49. Letter from same to same, dated Bristol, 27th April, 1780.
50. Letter from same to same, dated Bristol, 8th April, 1780.
51. Letter from same to same, dated Bristol, 19th Oct., 1780.
52. Letter from same to same, dated Bristol, 15th April, 1780.
53. Letter from same to same, dated Bristol, 13th Dec., 1779.
54. Letter from same to same, dated Bristol, 11th Oct., 1788.
55. Letter from same to same, dated Bristol, 5th Feb., 1780.
56. Letter from same to same, dated Bristol, 20th March, 1779.
57. Letter from same to same, dated Bristol, 17th Feb.,.1780.
58. Letter from same to same, dated Bristol, 27th March, 1779.
59. Letter from same to same, dated Bristol, 25th March, 1780.
60. Letter from same to same, dated Bristol, 15th Jan., 1780.
61. Letter from L. Cowper to Matthias Aspden, dated Bristol, 22d January, 1780.
61. Letter from same to same, dated Bristol, 28th Feb., 1791.
62. Letter from same to same, dated Bristol, 18th Feb., 1791.
63. Copy of a letter from Matthias Aspden to Captain George Currie, dated London, 10th March, 1779.
64. Bill to M. Aspden, 1789.
65. A table of descent, with draft of coat of arms.
66. A letter from Matthias Aspden, enclosing his will, bearing date the day of March, 1791.
67. An account of Matthias Aspden, by himself, dated Clifton near Bristol, July 18th, 1798.
68. Coat of arms of the Right Honorable Emanuel Scroop, earl of Sunderland.
69. Coat of arms.
70. Letter from Thomas Aspden, (cousin M. Aspden,) without date, in reply to inquiries respecting himself.
71. A paper containing an account of baptisms and marriages in Matthias Aspden's family, received from T. Aspden.
72. A will of Matthias Aspden, cancelled by himself, dated 24th March, 1776.

The package marked A, No. 8, contains as follows:

1. Package containing 17 checks, drawn by M. Aspden on Hankey & Co. and 10 receipts from sundry persons to M. Aspden.
2. Letter from Henry Hoare & Co. to Matthias Apsden, dated London, 13th Sept., 1800.
3. Letter from same to same, dated London, 16th July, 1800.
4. Letter from same to same, dated London, 30th Oct., 1793.

5. Letter from same to same, dated London, 1st July, 1790.
6. Letter from same to same, dated London, 15th Sept., 1794.
7. Letter from same to same, dated London, 17th Dec., 1793.
8. Letter from same to same, dated London, 10th Dec., 1795.
9. Letter from same to same, dated London, 13th Aug., 1794.
10. Letter from same to same, dated London, 26th June, 1798.
11. Letter from same to same, dated London.
12. Letter from same to same, dated London, 13th Oct., 1795.
13. Letter from same to same, dated London, 23d July, 1801.
14. Letter from same to same, dated London, 12th Dec., 1800.
15. Letter from same to same, dated London, 26th Aug., 1799.
16. Letter from same to same, dated London, 2d March, 1796.
17. Letter from same to same, dated London, 30th Dec., 1801.
18. Letter from same to same, dated London, 18th Sept., 1899.
19. Letter from same to same, dated London, 18th Oct., 1796.
20. Letter from same to same, dated London, 28th Aug., 1801.
21. Letter from same to same, dated London, 6th April, 1802.
22. Letter from same to same, dated London, 12th Jan., 1802.
23. Letter from same to same, dated London, 28th July, 1801.
24. Letter from same to same, dated London, 22d July, 1801.
25. Letter from same to same, dated London, 20th July, 1801.
26. Letter from same to same, dated London, 23d Dec., 1795.
27. Letter from same to same, dated London, 13th Oct., 1796.
28. Letter from same to same, dated London, 19th Jan., 1797.
29. Letter from same to same, dated London, 17th Jan., 1797.
30. Letter from Thomas Aspden to Hoare & Co., dated Lancashire, 7th March, 1791.
31. Letter from G. Ellis to M. Aspden.
32. Part of a letter from to same, dated London, 23d July, 1795.
33. Five blank powers of attorney.
34. Nine accounts current between L. Cowper and same, between the years 1777 and 1782.
35. Three copies of an act of parliament.
36. Letter and account from Francis Baring & Co. to M. Aspden, dated 13th Dec., 1802.
37. Duplicate letter from Henry Kuhl to same, dated Bank U. S., 25th Oct., 1806.
38. Ditto letter from same to same, dated Bank U. S., 17th May, 1805.
39. Ditto letter from same to same, dated same, 10th June, 1805.
40. Letter from same to same, dated same, 19th Sept., 1806.
41. Letter from Perigaud to same, dated Paris, 30th April, 1804.
42. Letter and account current from J. Pasqueir to same, dated 4th Jan., 1804.
43. Bill for certificates of American stocks, dated London, 4th Jan., 1804.
44. Bill for certificates of do. stocks, dated London, 20th Aug., 1804.

45. Bill for certificates of American stocks, dated London, 19th June, 1806.
46. Bill for do. of do. dated London, 18th Aug., 1804.
47. Letter from Mr. Hall to M. Aspden.
48. Letter from Mr. Smith to same.
49. Letter from H. Kuhl to same, dated Bank U. S., 10th June, 1806.
50. Letter from same to same, dated same, 5th Sept., 1803.
51. Letter and account from Francis Baring & Co. to same, dated London, 6th Feb., 1804.
52. Letter from Henry Kuhl to same, dated Bank U. S., 25th Oct., 1806.
53. Letter from same to same, dated same, 19th Sept., 1806.
54. Letter from Henry Kuhl to Matthias Aspden, dated Bank U. S., 20th April, 1804.
55. Letter from same to same, dated Bank United States, 29th Aug., 1804.
56. Letter from same to same, dated Bank U. States, 20th April, 1804.
57. Letter from same to same, dated same, 29th August, 1804.
58. Letter from same to same, dated same, 17th May, 1805.
59. Letter from Francis Baring & Co. to same, dated London, 13th June, 1803.
60. Bill for stock, dated London, 12th April, 1803.
61. Letter from F. Baring & Co. to same, dated 14th March, 1803.
62. Letter from same to same, dated 5th September, 1803.
63. A memorandum of Matthias Aspden concerning himself, (proposes returning to America.)
64. Letter from Lancelot Cowper to same, dated Bristol, 19th Feb., 1780.

Package marked A, No. 9, contains as follows:

1. Letter from L. Cowper to M. Aspden, dated Bristol, 5th March, 1778.
2. An invoice of goods.
3. Protest.
4. List of ship Cumberland's freight.
5. Captain Albro in account with Lancelot Cowper.
6. Account sales of rice.
7. Letter from James Reede to M. Aspden, dated 5th April, 1788.
8. Letter from Sharps, Maude & Co. to same, dated 1st Dec., 1783.
9. Account sales.
10. Letter from Dav. Sandeman to same, 28th March, 1778.
11. Letter from G. W. Soltaw to same, 10th March, 1784.
12. Letter from Beckmen & Beyer to same, 29th Nov., 1793.
13. Bill for sundry disbursements on brig Ranger.
14. Letter from W. Arnold to same, 22d March, 1799.
15. M. Aspden's account with L. Cowper.
16. Bill of sale for sundries, &c.
17. Account of Captain G. Corrie.

18. Letter from L. Cowper to M. Aspden, dated Bristol, 13th March, 1799.
19. Letter from same to same, same, 20th Feb., 1779.
20. Letter from same to same, same, 11th Feb., 1779,
21. Letter from same to same, same, 3d April, 1777.
22. Letter from same to same, same, 25th March, 1779.
23. Letter from same to same, dated Bristol, 29th Nov., 1779.
24. Letter from same to same, dated same, 9th Oct., 1779.
25. Letter from same to same, do. same, 24th Feb., 1779.
26. Letter from same to same, do. same, 14th Feb., 1791.
27. Letter from same to same, do. same, 11th Sept., 1779.
28. Letter from same to same, do. same, 25th Dec., 1779.
29. Letter from same to same, do. same, 21st June, 1779.
30. Letter from same to same, do. same, 21st Feb., 1779.
31. Letter from same to same, do. same, 14th Oct., 1779.
32. Do. do. same to same, do. same, 8th April, 1779.
33. Do. do. do. do. do. 6th March, 1779.
34. Do. do. do. do. do. 7th June, 1779.
35. Do. do. do. do. do. 15th Feb., 1779.
36. Do. do. do. do. do. 27th Feb., 1779.
37. Do. do. do. do. do. 13th Feb., 1779.
38. Do. do. do. do. do. 23d March, 1779.
39. Do. do. do. do. do. 31st Oct., 1778.
40. Do. do. do. do. do. 17th Oct., 1778.
41. Do. do. do. do. do. 14th Oct., 1778.

42. Letter from L. Cowper to M. Aspden, dated Bristol, 2d Jan., 1779.
43. Do. do. do. do. do. 1st Nov., 1779.
44. Do. do. do. do. do. 1st April, 1779.
45. Do. do. do. do. do. 1st June, 1779.
46. Do. do. do. do. do. 25th Nov., 1782.
47. Do. do. do. do. do. 17th April, 1779.
48. Do. do. do. do. do. 28th Feb., 1779.
49. Letter from Wm. Miles & Son to M. Aspden, dated Bristol, 25th Oct., 1798.
50. Letter from J. Galloway to same, dated Cotham Lodge, 7th July, 1786.
51. Protest.
52. Petition of Maths. Aspden.
53. Maths. Aspden's note to Mr. Faulkner.
54. A bill to M. Aspden, with memorandum on its back.
55. List of debts.
56. A paper entitled "Salutation to all the Parts of Christ."
57. Letter from J. Sims to M. Aspden, dated Richmond Green.
58. Passport for M. Aspden, dated Cork, 22d Aug., 1798.
59. List of balances taken from ledger.
60. Letter from J. W. Hay to M. Aspden, dated Marlborough street, 22d April, 1803.
61. Letter from G. Armstrong to same, dated Bristol, 20th Sept., 1798.
62. Letter from Sir Chas. Kent to same, dated
63. Letter from John Woodward to same, with letter from M. Aspden on it, states his living under the Alien act.
64. Letter from W. Cowper to same, considering him 7 or 8 years old.
65. Letter from Thos. Ford to same, dated Bath, 3d Jan., 1791.
66. Letter from Robt. Best to same, dated Bank of England, 5th Aug., 1800.
67. Questions by M. Aspden to Mr. Douglas.
68. Answer to M. Aspden's questions, by Mr. Douglas, Lincoln's Inn, 30th Nov., 1785.
69. Letter from Thos. Raikes to M. Aspden, dated Bank of England, 17th May, 1798.
70. Letter from Mr. Harley to same, dated 22d Feb., 1790.
71. Letter from M. Aspden to Capt. Luscomb, dated Cork, Aug., 1798.
72. Letter from M. Aspden to Alderman Harley, dated Lower Brook street, 2d July, 1787.
73. Letter from Wm. Miles & Son to M. Aspden, dated Bristol, 23d June, 1798.

74. Letter from Limozin to same, dated Havre De Grace, 11th Jan., 1791.
75. Copy of proceedings in orphans' court on Reba. Hartley's account, administratrix of Roger Hartley, deceased.
76. Letter from J. Hartley to M. Aspden, dated 31st Jan., 1792.
77. Protest.
78. Letter from Francis Baring & Co. to M. Aspden, dated London, 28th Sept., 1801.
79. Letter from Wm. Smith to same, dated Southampton, 12th March, 1791.
80. Statement of M. Aspden to the Lord Chancellor, dated London, 18th Dec., 1798.
81. Letter from J. Galloway to Maths. Aspden, giving his opinion what he ought to do, dated 20th Sept., 1786.
82. Bill to M. Aspden, with notes thereon, by himself.
83. Letter from Robt. Darell to M. Aspden, dated Richmond, 17th June, 1799.
84. Sir Robt. Baker's letter to M. Aspden, concerning unpaid fare for hackney-coach.
85. Letter from R. Robson to same, dated 12th Dec., 1800.

The book marked B 60, contains memorandums of accounts and copies of letters.

The book marked B 61, contains a diary.

The book marked B 62, contains quotations from the Bible and accounts.

The book marked B 63, contains accounts and receipts.

Book marked B 64, contains copies of letters and mems. of accounts.

Parchment pocket-book, marked B 65, contains part of a journal and accounts.

Book marked B 68, is a receipt book.

Book marked B 69, contains "A case stated," with letters to sundry persons.

Book marked B 70, contains letters to sundry persons.

Book marked B 71, contains letters to sundry persons.

Old leather portfolio marked B 74, contains such papers as old receipts; bills for clothes, board, and lodging; bills for the sale of stock; receipts for stock; cancelled checks; blank powers of attorney; certificates of stock; tradesmen's cards; and handbills and bill for taxes.

The book marked B 72, is the Bible.

Book marked B 73, is a letter book.

Letter marked A No. 10, is from Mathias Aspden, of Blackburn, dated 29th August, 1831.

Letter marked A No. 11, contains a deposition of Joseph Roberts, of Philadelphia, as to the handwriting of Mathias Aspden, to which is attached two papers, being memorandums of the names, &c., of the children of Thomas Aspden and Elizabeth, his wife.

Letter marked A, No. 12, from M. Aspden to Lord Lansdown.
Letter marked A, No. 13, from Peter Whitesides, dated January 20th, 1788.
Paper marked A, No. 14, is the copy of last will of Mathias Aspden, dated Philadelphia, Dec. 6th, 1791.
A pocket almanac marked A, No. 15.
A pocket book containing memorandums, &c., marked A, No. 16.
Paper marked A, No. 17. Account of the South Sea Company's income, &c.
Receipt book, marked A, No. 18.
A book endorsed "Insurance Book," marked A, No. 19.
A bill of lading book, marked A, No. 20.
Book of accounts, marked A, No. 21.
Letter book, marked A, No. 22.
Book of accounts, marked A, No. 23.
Ledger, marked A, No. 24.

Subsequently added.

Package marked A, No. 25 contains as follows:

1. Letter from H. Batemen to M. Aspden, dated 21st May, 1802.
2. Notice of the election for sub-governor and deputy governor of the South Sea Company, on which is a note by Mathias Aspden.
3. Letter from Math. Wick to M. Aspden, dated Office for Taxes, 17th March, 1803.
4. Letter from Messrs. Herries, Farquar & Co. to M. Aspden, dated 28th April, 1803.
5. Memorial of M. Aspden to the commissioners, &c.
6. Bill from Hale & Davidson, dated Phila., 19th April, 1823, for stock on account of M. Aspden.
7. Letter from Saml. Wells to H. Nixon, dated Paris, 13th July, 1825.

EXHIBIT [C].

List of letters and other papers produced at the office of the master, and ordered to be printed.

1776.
March 23. Letter of attorney, Matthias Aspden, Phila., to James Hartley and Jacob Cooper.
" Draft of will in handwriting of M. Aspden.
" 24. Will of M. Aspden, in handwriting of Peter Thompson.
May 6. Letter, M. Aspden, Phila., to H. & A. Wallace, N. York.
" 13. " H. Wallace, N. York, to M. Aspden, Phila.
" 20. " same " to same "
1777.
June 15. " Wm. Priddie, St. Kitt's, to M. Aspden, Bristol.
July 10. " H. & A. Wallace, New York, to M. Aspden, London.

1778.
June 26. Letter, B. & C. Bewicke, London, to M. Aspden, Spain.
June 27. " L. Cowper, Bristol, to same.
July 17. " B. & C. Bewicke, London, to same.
Aug. 4. " T. Van Egmant & Son, Rotterdam to same, Amsterdam.
Aug. 28. Letter, J. and J. Vandewall, Amsterdam, to same, London.
1779.
Nov. 30. " M. Aspden, London, to J. & J. Vandewall.
1780.
Jan. 18. " J. & J. Vandewall to M. Aspden, London.
July 10. " M. Aspden, London, to Rev. W. White.
" " " same, to James Hartley.
Sept. 3. " same, Bristol, to H. & A. Wallace, N. York.
Oct. 19. " L. Cowper, Bristol, to M. Aspden, Whitehaven.
" 21. " M. Aspden, Whitehaven, to ——.
1781.
June 30. " L. Cowper, Bristol, to M. Aspden, London.
July 21. " Rev. W. White, Phila., to M. Aspden, London.
1782.
Oct. 1. " same " to same "
Nov. 20. " James Hartley, " to same "
Dec. 12. " M. Aspden, London, to James Hartley, Phila.
1783.
Jan. 8. " James Hartley, Phila., to M. Aspden, London.
Feb. 5. " L. Cowper, Bristol, to same, Bath.
March 6. " James Hartley, Phila, to M. Aspden, London.
July 8. " same " to same, "
August 28. " same " to same, "
Sept. " same " to same, "
Oct. 17. " Jos. Harrison, Phila., to same, "
Oct. 18. " James Hartley, " to same, "
" Memorial of M. Aspden to commissioners of American claims.
" Letter, M. Aspden to
1784.
April 1. Memorandum of account of Joseph Shewell.
" 21. Letter, James Hartley, Phila., to M. Aspden.
" M. Aspden to
Oct. 1. " Rev. W. White, Phila., to M. Aspden, London.
1785.
March 8. " M. Aspden, Bath, to Messrs. Hibbert.
May 12. Letter, Joseph Harrison, Phila. to M. Aspden.
Aug. 2. Opinion of J. Kinsey, esq., Burlington.
October. Letter, M. Aspden, London, to ——.
Nov. " same, Bath, to ——.
Nov. " same, " to ——.
Nov. 20. " S. Douglas, esq., Lond., to M. Aspden, Bath.
" 30. " same " to same, "

Nov. 30. Letter, M. Aspden to S. Douglas, esq., with queries.
" " " Opinion of Sylvester Douglas, esq.
Dec. 7. " Joseph Harrison, Phila. to M. Aspden, London.
" 16. " James Hartley, " to same, "
" 19. " Joseph Harrison, " to same, "
" 25. " James Hartley, " to same, "
Case for Mr. Ingersoll's opinion.

1786.

April. Petition to Supreme Executive Council of Pennsylvania.
" 18. Pardon of Matthias Aspden.
May 1. Letter, Joseph Harrison, Phila. to M. Aspden, London.
" 5. " same, " to same, "
June 29. " J. Forster, London, to same, "
" 30. " Jos. Harrison Phila., to same, "
Sept. 6. " J. Galloway, Cotham Lodge, to M. Aspden, Lond.
" 20. " same " to same. "
Dec. Memorial of M. Aspden to the Lords of the Treasury.
" Case of M. Aspden.

1787.

Feb. 4. Letter, Lord Lansdowne to Bishop White.
" 13. Certificate of Governor Tryon.
" 20. " of John Natt.
July 2. Letter, M. Aspden to Alderman Hartley.
" Memorial, M. Aspden to Commissioners of American Claims.
" Additional remarks of M. Aspden to same.
" Certificates of certain persons respecting M. Aspden.
" Petition of M. Aspden to the House of Commons.

1788.

May 30. Statement of claims of American loyalists.
Oct. 11. Letter, L. Cowper, Bristol, to M. Aspden, and note by M. Aspden, on the same sheet to ———
Nov. 7. Letter, John Sagan, Simonstone, to M. Aspden, London.

1789.

Feb. 19. Letter, Charles Biddle, Phila., to M. Aspden.
May 15. " Bishop Provoost, N. York, to same, London.
Dec. 5. " George Harrison, Phila., to same, "

1790.

Jan. 4. " same, " to same, "
Mar. 18. " L. Cowper, Bristol, to same, "
" 26. Bond, Lancelot Cowper to M. Aspden.
April. Letter, George Harrison, Phila., to M. Aspden, London.
May 23. " Bishop White, " to same, "
June 22. " G. C. Fox & Sons, Falmouth, to same, Bath.
" 24. " J. Warder, London, to same, "
July 1. " H. Hoare & Co., " to same, "
Memoir or case of M. Aspden.
Memorial of M. Aspden to the privy council.

1791.
Jan. 11. Letter, Lemozin & Co., Havre, to M. Aspden, London.
Feb. 27. " M. Aspden, London, to James Hartley, Phila.
Mar. 7. Thomas Aspden, Great Harwood, to H. Hoare & Co., London.
" 17. M. Aspden, London, to Mrs. Mary Harrison, Phila.
" 18. Same, " to James Hartley, "
March. Will of M. Aspden cancelled.
July 13. Letter, R. Barclay to M. Aspden, London.
1792.
Mar. 26. " Benjamin Chew, jr., to M. Aspden, and note of M. Aspden at foot.
April 28. " M. Aspden, Phila., to H. Hoare & Co., London.
Aug. 7. " same, Bristol, to Abm. Liddon, Phila.
Sept. 10. " same, Lond. to same, "
Nov. 24. " Abm. Liddon, Phila., to M. Aspden, London.
" M. Aspden to Abm. Liddon, Phila.
Memorial of M. Aspden to the judges of the Palace court.
1793.
Feb. 1. Letter, M. Aspden, London, to Abm. Liddon, Phila.
Mar. 4. " same, " to same, "
May 4. " Abm. Liddon, Phila., to M. Aspden, London.
June 30. " M. Aspden, London, to ———.
" " same, " to Mrs. Harrison, Phila.
" " same, " to Abm. Liddon, "
" " same, " to cashier, Bank N. A.
Sep. 21. " same, " to Jas. Hartley, jun., Haddonfield.
1794.
July 14. " same, " to same.
Nov. 4. " Joseph Sims, Phila., to M. Aspden, London.
" 5. " Thos. Morris, " to same. "
1795.
March. " M. Aspden, London, to Thos. Morris, Phila.
" " same, " to Bank N. America.
May 9. " same, " to Thos. Morris, Phila.
Sep. 11. " Thos. Morris, Phila., to M. Aspden, London.
Oct. 23. Account by Messrs. Barings, of cost of 3 per cent.
1796.
Feb. 22. Letter, M. Aspden, London, to T. Morris, Phila.
" 26. Certified copies of certificates of stock.
May 9. Letter, M. Aspden, London, to Hon. Thos. Willing, Phila.
July. " same, " to same.
1797.
Feb. 27. " R. Simpson, London, to M. Aspden, Bath.
Mar. 14. " M. Aspden, " to T. Willing, Phila.
May 10. " same, " to same.

1798.
Jan. 9. Letter, J. Fry, jr., & Co., to M. Aspden.
May 2. " W. Miles & Son, Bristol, to same, London.
June 23. " same, " to same, Bath.
June 26. " H. Hoare & Co., to M. Aspden, Bath.
July 2. " same, to same, "
" 10. " same, to same, Bristol.
" 12. " same, to same, "
" 16. " same, to same, Bath.
" 17. Passport to M. Aspden from the Duke of Portland.
" 18. M. Aspden's account of himself, Clifton, near Bristol.
" 19. Letter, S. Gist, London, to John Granbury, Norfolk, Va.
" 19. " same, to M. Aspden, Bristol.
August. " M. Aspden, Cork, to Capt. Luscomb.
(No date.) " same to ——— (on the same sheet.)
Aug. 22. Pass for M. Aspden from Cork to Dublin.
Sept. 6. Letter, H. Hoare & Co., to M. Aspden, Bristol.
" 12. License to M. Aspden, an alien, with his remarks.
" 19. Letter, H. Hoare & Co. to M. Aspden.
" 20. " Guppy, Armstrong & Co., Bristol, to same.
Oct. 25. " W. Miles & Son, Bristol, to M. Aspden, London.
1799.
January. " M. Aspden, London, to Thos. Willing & Co., Phila.
Feb. 12. " Thos. Morris, Phila, to M. Aspden, London.
" Draft of answer endorsed.
October. Memorial of M. Aspden to the Lord Chancellor.
Dec. 7. Letter, M. Aspden, London, to Thos. Willing & Co., Phila.
1800.
Mar. 1. " John Woodcock to M. Aspden.
" Drafts of letters by M. Aspden on the same sheet.
May 7. Letter, M. Aspden, London, to Thos. Willing & Co., Phila.
" Memorandum respecting "the Rt. Hon." M. Aspden.
" Another with the same heading.
" "Authorities to show that he comes under the alien bill."
1801.
Feb. 26. Letter, M. Aspden, London, to Thos. Willing & Co., Phila.
1802.
Feb. 22. Letter, H. Hoare & Co., London, to M. Aspden, Richmond, Surrey.
" " Endorsement by M. Aspden on the preceding sheet.
April 6. Letter, H. Hoare & Co., to M. Aspden, London.
May 21. " W. Bateman to same, "
" " Draft of letter by M. Aspden, on the same sheet.
Aug. 5. Letter, H. Hoare & Co., to M. Aspden, Turin.
Oct. 7. Passport to M. Aspden, from Naples, &c.
" 15. " to same, " Cardinal Gonsalvi, Rome.
" " Letter, Gov. Ellis to M. Aspden, Alle Crocelle; with note by M. Aspden.

1803.
Feb. 9. Letter, H. Hoare & Co., London, to M. Aspden, Paris.
April 28. " Herries & Co., " to same, London.
" " Memorandums by M. Aspden on the same sheet.
May 24. Letter, M. Aspden, London, to Messrs. Peregeaux, Paris.
June 1. Letter, same, " to Prest. Bank U. States.
July 26. " H. Hoare & Co., " to M. Aspden.
Sept. 5. " H. Kuhl, Philada., to same, London.
" 21. " H. Hoare & Co., London, to same, Liverpool.
" " List of balances due M. Aspden, with remarks.
1804.
Jan. 12. Letter, M. Aspden, London, to Pres. Bank U. States.
April 30. " Peregeaux, Paris, to M. Aspden.
July 26. " M. Aspden, London, to Pres. Bank U. States.
Aug. 7. " same, " to Jas. Hartley, jr., Haddonfield.
Nov. 15. " same, " to Robson & Gill, London.
1805.
Sept. 16. Letter, Thos. Morris, Philada., to M. Aspden, London.
Dec. 13. " H. Hoare & Co., London, to same, "
1806.
Jan. 31. " Daniel Clymer, Lancaster, to M. Aspden, London.
July 15. " H. Hoare & Co., London, to same, "
" 21. " M. Aspden, London, to Prest. Bank U. States.
Sept. 16. " same, " to same.
Oct. 4. " H. Hoare & Co., London, to M. Aspden, London.
" 22. " J. Watkins, to same, "
Nov. 21. " same, to same, "
1807.
June 5. " M. Aspden, London, to Prest. Bank U. States.
May 30. " H. Hoare & Co., " to M. Aspden, Liverpool.
July 27. " same, " to same, "
" 28. " same, " to same, "
" 31. " M. Aspden, Liverpool, to Prest. Bank U. States.
Aug. 15. " same, London, to same.
1808.
Feb. 23. " same, " to same.
March 10. " Matt. Winter, London, to M. Aspden, London.
May 28. Memorandum of M. Aspden.
Oct. 17. Draught on the Special Commissioners of the Income Duty.
" 31. Letter, M. Aspden, London, to Prest. Bank U. States.
Nov. 16. " H. Hoare & Co., London, to M. Aspden, with mem. of M. Aspden subjoined.
1809.
Jan. 21. Letter, H. Hoare & Co., London, to M. Aspden, Bath.
" 26. " same, " to same, "
March 17. " Matt. Winter, " to M. Aspden, London.
Nov. 17. " H. Hoare & Co. " to same, "

Nov. 17. Letter, M. Aspden to Commissioners of Taxes.
" 18. " John S. Taylor, London, to M. Aspden, London.
1816.
Jan. 18. Check, M. Aspden, on S. Girard, banker.
" 19. " same on same.
Feb. 2. " same on same.
April 16. " same on same.
May 18. " same on same.
" 31. " same on same.
July 1. " same on same.
" 11. " same on same.
July 11. " same on same.
Aug. 15. " same on same.
" " " same on same.
Dec. 27. " same on same.
1818.
Jan. 31. Letter, M. Aspden, London, to Prest. Bank U. States.
Dec. Memoir of himself, by M. Aspden, addressed apparently to Messrs. Lafitte.
1819.
May 7. Letter, M. Aspden, London, to L. Cheves, Prest. Bank U. States.
1820.
July 5. " same " to same, "
" 28. " same " to same, "
1823.
Jan. 25. Notice of election in South Sea Co., addressed to "the Rt. Hon." M. Aspden.
" " Note by M. Aspden, at foot of the above.
Feb. 10. Letter, M. Aspden, London, to L. Cheves, Prest. Bank U. S.
April 19. Bill of Hale & Davidson, for purchase of stock.
1824.
April 25. Letter, M. Aspden, London, to N. Biddle, Prest. Bank U. S.
1831.
Aug. 29. Letter, Matthias Aspden, Blackburn, to H. Nixon, Phila.

Papers of uncertain date.

List of births, &c., of the Aspden family on a blank leaf in the folio Bible.
List of births, &c., of the same on loose papers.
List of births, &c., in the Hartley family.
Letter from Thomas Aspden to M. Aspden, London, with extracts from Registers, &c., enclosed.
Entries in M. Aspden's ledger, folio 75.
Letter, "Mr. Hall" to M. Aspden.
Draft of letter, M. Aspden to Lord Lansdown.

"Short narrative of Facts."
Memorandum of M. Aspden on a card.
Memorial of M. Aspden to the House of Representatives.

[EXHIBIT D.]

PACKER vs. NIXON. } Circuit court United States. In equity.

List of letters and other papers produced at the office of the master in the above case, and ordered to be printed.

1776.
1. March 23. Letter of Attorney, Matthias Aspden, Philadelphia, to James Hartley and Jacob Cooper.
2. " Draft of Will in handwriting of Matthias Aspden.
3. March 24. Will of Matthias Aspden in handwriting of Peter Thompson.
4. May 6. Letter, Matthias Aspden, Philadelphia, to H. & W. Wallace, N. Y.
5. " 13. Letter, H. Wallace, N. Y., to Matthias Aspden, Phila.
6. " 20. Same to same.

1777.
7. June 15. " Wm. Priddie, St. Kitts, to M. Aspden, Bristol.
8. July 10. " H. & A. Wallace, N. Y., to M. Aspden, London.

1778.
9. June 26. " B. & C. Bewicke, London, to M. Aspden, Spa.
10. " 27. " L. Cowper, Bristol, to M. Aspden, Spa.
11. July 17. " B. &. C. Bewicke, London, to M. Aspden, Spa.
12. Aug. 4. " T. Van Egmont & Son, Rotterdam, to M. Aspden, Amsterdam.
13. " 28. " J. & J. Van de Wall, Amsterdam, to M. Aspden, London.

1779.
14. Nov. 30. " M. Aspden, London, to J. & J. Van de Wall.

1780.
15. Jan. 18. " J. & J. Van de Wall to M. Aspden, London.
16. July 10. " M. Aspden, London, to Rev. Wm. White.
17. " " same to James Hartley.
18. Sept. 3. " same, Bristol, to H. & A. Wallace, New York.
19. Oct. 19. " L. Cowper, Bristol, to M. Aspden, Whitehaven.
20. " 21. " M. Aspden, Whitehaven, to —— ——.

1781.
21. June 30. " L. Cowper, Bristol, to M. Aspden, London.
22. July 21. " Rev. Wm. White, Philadelphia, to M. A., London.

1782.
23. Oct. 1. " same to same.
24. Nov. 20. " James Hartley, Philadelphia, to same.
25. Dec. 12. " M. Aspden, London, to James Hartley, Phila.

1783.

26. Jan. 8. Letter, James Hartley, Phila., to M. Aspden, London.
27. Feb. 5. " L. Cowper, Bristol, to M. Aspden, Bath.
28. March 6. " James Hartley, Phila., to M. Aspden London.
29. July 8. " same to same.
30. Aug. 28. " same to same.
31. Sept. " same to same.
32. Oct. 17. " Joseph Harrison, Phil., to M. Aspden, London.
33. Oct. 18. " James Hartley, Phila., to same.
34. Memorial of M. Aspden to Commissioners of American Claims.
35. Letter, Matthias Aspden to ——.

1784.

36. April 1. Mem. of account of Joseph Shewell.
37. " 21. Letter, James Hartley, Philada., to M. Aspden.
37*. " M. Aspden to ——.
38. Oct. 1. " Rev. Wm. White, Phila., to same, London.

1785.

39. March 8. " M. Aspden, Bath, to Messrs. Hibberts.
40. May 12. " Joseph Harrison, Philadelphia, to M. Aspden.
41. Aug. 2. Opinion of J. Kinsey, esq., Burlington.
42. Oct. Letter, M. Aspden, London, to ——.
43. Nov. " M. Aspden, Bath, to ——.
44. " same to ——
45. Nov. 20. " S. Douglas, esq., London, to M. Aspden, Bath.
46. " 30. " S. Douglas, esq., to M. Aspden, Bath.
47. " M. Aspden to S. Douglas, with queries.
48. Opinion of Sylvester Douglas, esq.
49. Dec. 7. Letter, Joseph Harrison, Phila. to M. Aspden, London.
50. Dec. 16. " James Hartley, Phila., to same.
51. " 19. " Joseph Harrison, Phila., to same.
52. " 24. " James Hartley, Phila., to same.
53. Case for Mr. Ingersoll's opinion.

1786.

54. April. Petition to Supreme Ex. Council of Pennsylvania.
55. " 18. Pardon of M. Aspden.
56. May 1. Letter, Joseph Harrison, Phila., to M. Aspden, London.
57. " 5. " same to same.
58. June 23. " J. Foster, London, to M. Aspden.
59. " 30. " Joseph Harrison, Phila., to M. Aspden, London.
60. Sept. 6. " J. Galloway, Cotham Lodge, to M. Aspden, London.
61. Sept. 20. Letter, J. Galloway, Cotham Lodge, to M. Aspden.
62. Dec. Memorial of M. Aspden to Lords of the Treasury.
63. Case of M. Aspden.

1787.

64. Feb. 4. Letter, Lord Lansdown to Bishop White.
65. Feb. 13. Certificate of Governor Tryon.

66. Feb. 20. Certificate of John Natt.
67. July 2. Letter, M. Aspden to Alderman Harley.
68. Memorial of M. Aspden to Commissioners of American Claims.
69. Additional remarks of M. Aspden to same.
70. Certificates of certain persons respecting M. Aspden.
71. Petition of M. Aspden to the House of Commons.

1788.

72. May 30. Statement of claims of American loyalists.
73. Oct. 11. Letter, L. Cowper, Bristol, to M. Aspden, and note by M. Aspden on the same sheet to .
74. Nov. 7. " John Sagar, Simonstone, to M. Aspden, Lond.

1789.

75. Feb. 19. " Charles Biddle, Philada. to M. Aspden.
76. May 15. " Bishop Provoost, N. York, to M. Aspden, Lond.
77. Dec. 5. " George Harrison, Philadelphia, to same.

1790.

78. Jan. 4. " Geo. Harrison, Philad., to M. Aspden, London.
79. Mar. 18. " L. Cowper, Bristol, to same.
80. Mar. 26. Bond, Lancelot Cowper to M. A.
81. April Letter, Geo. Harrison, Philad.,to M. Aspden, London.
82. May 23. " Bishop White, Philad., to M. Aspden, London.
83. June 22. " G. C. Fox & Sons, Falmouth, to M. Aspden, Bath.
84. 24. " J. Warden, London, to M. Aspden, Bath.
85. July 1. " H. Hoare & Co., London, to M .Aspden, Bath.
86. Memoir or case of M. Aspden.
87. Memorial of M. Aspden, to the privy council.

1791.

88. Jan. 11. Letter, Lemozin & Co. Havre, to M. Aspden, Lond
89. Feb. 27. " M. Aspden, London, to Jas. Hartley, Philad.
90. March 7. " Thos. Aspden, Great Harwood, to H. Hoare & Co., London.
91. 17. " M. Aspden, Lond. to Mrs. Mary, Harrison, Phil
92. 18. " same to James Hartley, do.
93. March. Will of M. Aspden, cancelled.
94. July 13. Letter, R. Barclay to M. Aspden, London.
95. Mar. 26. Letter, Benj. Chew, jun. to M. Aspden. Note of M. Aspden at foot.
96. April 28. " M. Aspden, Philad., to H. Hoare & Co., Lond.
97. Sept. 10. " M. Aspden, London, to Abm. Liddon, Philada.
98. Nov. 24. " Abm. Liddon, Philad., to M. Aspden, London.

1792.

99. " M. Aspden, to Abm. Liddon, Philad.
100. Memorial of M. Aspden, to the judges of the Palace court.

1793.

101. Feb. 1. Letter, M. Aspden, London, to Amb. Liddon, Philad.

102. Mar. 4. Letter, same to same.
103. May 4. " Amb. Liddon, Philad., to M. Aspden, London.
104. June 30. " M. Aspden, London, to ————.
105. " same to Mrs. Harrison, Philad.
106. " same to Amb. Liddon, Philad.
107. " same to Cashier Bank North America.
108. Aug. 17. " same to Abm. Liddon, Philad.
109. Sep. 21. " same to Jas. Hartley, jun., Haddonfield.
1794.
110. July 13. " same to same.
111. Nov. 4. " Jos. Sims, Philad., to M. Aspden, London.
112. 5. " Thos. Morris, Philad., to same.
1795.
113. March. " M. Aspden, London, to T. Morris, Philad.
114. " same to Bank North America.
115. May 9. " same to T. Morris.
116. Sept. 11. " Thos. Morris, Philad., to M. Aspden, London.
117. Oct. 23. Account by Messrs. Barings, of cost of 3 per cents.
1796.
118. Feb. 22. Letter, M. Aspden, London, to T. Morris.
119. 26. Certified copies of certificates of stock.
120. May 9. Letter, M. Aspden, London, to Hon. Thos. Willing.
121. July. " same to same.
1797.
122. Feb. 27. " R. Simpson, London, to M. Aspden, Bath.
123. Mar. 14. " M. Aspden, London, to Thos. Willing.
124. May 10. " same to same.
1798.
125. Jan. 9. " J. Fry, jr., & Co., to M. Aspden.
126. May 2, " W. Miles & Son, Bristol, to M. Aspden, Lond.
127. June 23. " W. Miles & Son, Bristol, to M. Aspden, Bath.
128. 26. " H. Hoare & Co., to M. Aspden, Bath.
129. July 2. " same to same.
130. 22. " H. Hoare & Co., to M. Aspden, Bristol.
131. 12. " same to same.
132. July 16. Letter, H. Hoare & Co. to M. Aspden, Bath.
133. 17. Passport to M. Aspden from the Duke of Portland.
134. 18. M. Aspden's account of himself, Clifton, near Bristol.
135. 19. Letter, S. Gist, London, to John Granbury, Norfolk.
136. 19. " same to M. Aspden, Bristol.
137. Aug. " M. Aspden, Cork, to Capt. Luscomb.
138. (no date.) " same to ——, on the same sheet.
139. Aug. 22. Pass for M. Aspden.
140. Sept. 6. Letter, H. Hoare & Co. to M. Aspden, Bristol.
141. 12. License to M. Aspden, an alien, with his remarks.
142. 19. Letter, H. Hoare & Co. to M. Aspden.
143. 20. " Guppy, Armstrong & Co., Bristol, to M. Aspden.
144. Oct. 25. " W. Miles & Son, Bristol, to M. Aspden, Lon.

1799.

145. Jan. Letter, M. Aspden, London, to Thos. Willing, &c.
146. Feb. 12. " Thos. Morris, Phila., to M. Aspden, London.
147. Draft of answer endorsed.
148. Oct. Memorial of M. Aspden to the Lord Chancellor.
149. Dec. 7. Letter, M. Aspden, London, to Thos. Willing, &c.

1800.

150. March 1. " John Woodcock to M. Aspden.
151. Drafts of letters by M. Aspden on the same sheet.
152. May 7. Letter, M. Aspden, London, to Thos. Willing, &c.
153. Memorandum respecting "the Rt. Hon." M. Aspden.
154. Another with the same heading.
155. "Authorities to show that he comes under the alien bill."

1801.

156. Feb. 26. Letter, M. Aspden, London, to Thos. Willing, &c.

1802.

157. Feb. 22. " H. Hoare & Co. to M. Aspden.
158. Endorsement by M. Aspden on preceding.
159. April 6. Letter H. Hoare & Co. to M. Aspden.
160. May 21. " W. Bateman to M. Aspden.
161. Draft of letter by M. Aspden, on the same sheet.
162. Aug. 5. Letter, H. Hoare & Co. to M. Aspden, Turin.
163. Oct. 7. Passport to M. Aspden from Naples, &c.
164. 15. Passport to same from Card, Gonsalvi, Rome.
165. Letter, Gov'r Ellis to M. Aspden, "Alle Crocelle," with note by M. Aspden.

1803.

166. Feb. 9. Letter, H. Hoare & Co. to M. Aspden, Paris.
167. April 28. " Herries & Co., London, to M. Aspden.
168. Memorandum by M. Aspden on the same sheet.
169. May 24. Letter, M. Aspden, London, to Messrs. Peregeaux, Paris.
170. June 1. Letter, same to President Bank U. States.
171. July 26. " H. Hoare & Co., London, to M. Aspden.
172. Sept. 5. " H. Kuhl, Philada., to M. Aspden, London.
173. 21. " H. Hoare & Co., to M. Aspden, Liverpool.
174. List of balances due M. Aspden, with remarks.

1804.

175. Jan. 12. Letter, M. Aspden to President Bank U. States.
176. April 30. " Peregeux, Paris, to M. Aspden.
177. July 26. " M. Aspden to President Bank U. States.
178. Aug. 7. " same to Jas. Hartley, jun., Haddonfield.
179. Nov. 15. " same to Robson & Gill, London.

1805.

180. Sept. 16. " Tho's Morris, Philada., to M. Aspden, Lond.
181. Dec. 13. " H. Hoare & Co., London, to same.

1806.

182. Jan. 31. Letter, Dan'l Clymer, Lancaster, to M. Aspden.
183. July 15. " H. Hoare & Co. to M. Aspden.
184. July 21. " M. Aspden, London, to Pres't Bank U. States.
185. Sept. 16. " same to same.
186. Oct. 4. " H. Hoare & Co. to M. Aspden.
187. 22. " J. Watkins to M. Aspden.
188. Nov. 21. " same to same.

1807.

189. June 5. " M. Aspden, London, to Pres't Bank U. States.
190. May 30. " H. Hoare & Co. to M. Aspden, Liverpool.
191. July 27. " same to same.
192. 28. " same to same.
193. 31. " M. Aspden, Liverpool, to Pres't Bank U. States.
194. Aug. 15. " same, London, to same.

1808.

195 Feb. 23. " same to same.
196. Mar. 10. " Matt. Wents to M. Aspden, London.
197. May 28. Memorandum of M. Aspden.
198. Oct. 17. Draft on the special commissioners of the income duty.
199. 31. Letter, M. Aspden, London, to Pres't Bank U. S.
200. Nov. 16. " H. Hoare & Co. to M. Aspden, with mem. of M. Aspden.

1809.

201. Jan. 21. " same to same, Bath,
202. 26. " same to same.
203. Mar. 17. " Matt. Wents to M. Aspden, London.
204. Nov. 17. " H. Hoare & Co. to M. Aspden.
205. " M. Aspden to Commissioners of Taxes.
206. 18. " John S. Taylor to M. Aspden, London.

1816.

207. Jan. 18. Check, M. Aspden on S. Girard's Bank.
208. Jan. 19. Check, M. Aspden on S. Girard's Bank.
209. Feb. 2. " ditto ditto.
210. April 16. " ditto ditto.
211. May 18. " ditto ditto.
212. 31. " ditto ditto.
213. July 1. " ditto ditto.
214. 11. " ditto ditto.
215. 11. " ditto ditto.
216. Aug. 15. " ditto ditto.
217. 15. " ditto ditto.
218. Dec. 27. " ditto ditto.

1818.

219. Jan. 31. Letter, M. Aspden, London, to President, &c., Bank of U. States.

220. Dec. Memoir of himself, by M. Aspden, addressed, apparently, to Messrs. Lafitte.

1819.

221. May 7. Letter, M. Aspden, London, to L. Cheves, President Bank United States.

1820.

222. July 5. Letter, same to same.

223. 28. " same to same.

1823.

224. Jan. 25. Notice of election in South Sea Company, addressed to "the Rt. Hon." M. Aspden.

225. Note by M. Aspden at foot of the above.

226. Feb. 10. Letter, M. Aspden, London, to L. Cheves, President Bank U. States.

227. April 19. Bill of Hale & Davidson for purchase of stock.

1824.

228. April 25. Letter, M. Aspden, London, to N. Biddle, President Bank United States.

1831.

229. Aug. 29. Letter, Mathias Aspden, Blackburn, to H. Nixon, Philadelphia.

Papers of uncertain date.

230. List of births, &c., of Aspden family, on a blank leaf in the folio bible.

231. List of births, &c., of the same on loose papers.

232. List of births, &c., of Hartley family.

233. Letter from Thos. Aspden to M. Aspden, London, with extracts from registers, &c., enclosed.

234. Entries in M. Aspden's ledger, folio 75.

235. Letter, "Mr. Hall" to M. Aspden.

236. Draft of letter, M. Aspden to Lord Lansdown.

237. "Short narrative of Facts."

238. Memorandum, in handwriting of M. Aspden, on a card.

239. Memorial of M. Aspden to the House of Representatives.

LETTERS AND OTHER PAPERS, &C.

1.

Letters of Attorney. Matthias Aspden, (Philadelphia,) to James Hartley and James Cooper.

Know all men by these presents, that I, Matthias Aspden, of the city of Philadelphia, in the province of Pennsylvania, merchant, being about to depart the said province, have constituted, made, and appointed, and by these presents do constitute, make, and appoint, my trusty and loving friends, James Hartley and Jacob Cooper, both of the city of Philadelphia, true and lawful attorneys, for me and in my name and

stead, and to my use, to ask, demand, sue for, levy, recover, and receive all such sum and sums of money which are or shall be due, owing, payable, and belonging to me, or detained from me any manner of ways or means whatsoever by any person or persons whomsoever, whether by bond, note, bill, book debt, account, consignment, trade, dealing, or otherwise, howsoever, nothing excepted or reserved, and more especially for me and in my name to enter into and take possession of all, every, or any the houses, tenements, lots, lands, hereditaments, and real estate whatsoever belonging unto me, situate in the said province or elsewhere in America, and the same to let and lease out for any term or term of years, to such person or persons who may be inclineable to take or rent the same, for such rent or rents as to my said attorneys, or either of them, shall seem meet, and to receive and take the rents, issues and profits thereof, and if need be to distrain for the same rents, and to sell and dispose of such distress according to law, or otherwise to recover the same rents by due course of law; also to sell and dispose of the same houses, lots, lands, hereditaments, and real estate, for the best price or prices that can or may be had for the same, to any person or persons who may be inclineable to purchase the same, and to make, sign, seal, execute, and deliver, in my name or otherwise, all such deeds, conveyances, and assurances whatsoever, as shall be necessary for vesting and transferring the premises and fee simple thereof, or of any part thereof, in the purchaser or purchasers, his, her, or their heirs or assigns. Giving and granting unto my said attorneys, or either of them, by these presents, my full and whole power, strength, and authority, in and about the premises, to have, use, and take all lawful ways and means in my name for the recovery thereof, and upon the receipt of any such debts, dues, rents, or sums of money aforesaid, acquittances or other sufficient discharges, for me and in my name, to make, seal, and deliver; and generally all and every other act and acts, thing and things, device or devices, in the law whatsoever, needful and necessary to be done in and about the premises, for me and in my name to do, execute, and perform, as fully, largely, and amply, to all intents and purposes, as I myself might or could do if I was personally present, or as if the matter required more especial authority than is herein given; and attorneys, one or more under them, or either of them, for the purpose aforesaid, to make and constitute, and again at pleasure to revoke; ratifying, allowing, and holding, for firm and effectual, all and whatsoever my said attorneys, or either of them, shall lawfully do in and about the premises by virtue hereof.

In witness whereof I have hereunto set my hand and seal, this twenty-third day of March, in the sixteenth year of his majesty's reign, annoque domini, 1776.

MATTHIAS ASPDEN. [L. S.]

Sealed and delivered in the presence of us—
THO. W. SMITH,
RICH'D RUNDLE.

2.

Draft of Will, in handwriting of Matthias Aspden.

Be it remembered, that I, Matthias Aspden, of the city of Philadelphia, in the province of Pennsylvania, merchant, being about to depart to England, do make this my last will and testament in manner following, to say: First, it is my will that all my just debts and funeral expenses be duly paid, and that the whole of my stock in trade be disposed of as soon as possible after my decease; and I likewise direct my executors to collect in what moneys may be owing to me in this country, and to get the accounts of the respective balances that *is* be owing to me in England and Spain, that they may discharge the several legacies I have herein bequeathed. First, I give and bequeath unto my three nephews, Joseph, Matthias, and George Harrrison, sons to my sister Mary Harrison, my house in which now dwell, my plantation in Chester county, and four thousand five hundred pounds in cash; my house and plantation to be appraised, and the amount of the appraisement added to the four thousand five hundred pounds to be equally divided between my above mentioned three nephews, and to their heirs, assigns, forever, with all the rights and appurtenances belonging to the aforesaid house and plantation. I give and bequeath to my two nieces, viz., Mary White, wife to the reverend Mr. Willm. White, and Ann Harrison, both daughters of my sister Mary Harrison, the sum of fifteen hundred pounds to each, to hold to them, their heirs and assigns, forever. I give and bequeath to my three half-brothers, Roger Hartley, James Hartley, and Benjamin Hartley, the two first residing in Pennsylvania, and the latter in Haddonfield, in West Jersey, the sum of one thousand pounds to each, to hold to them, their heirs and assigns, forever. I give and bequeath to the four children of my deceased sister, Ann Hinchman, the sum of five hundred pounds, to be divided equally between them, and to hold to them, their heirs and assigns, forever. I give and bequeath to my two half-sisters, Bersheba Zane, wife of Nathan Zane, and Rebecca Kay, wife of John Kay, both residing in and near Haddonfield, in the province of West Jersey, the sum of five hundred pounds to each of them, to hold them, their heirs and assigns, forever. To my aunt Margery Bailey, residing at or near Simonstone, in Lancashire, two hundred pounds, I give and bequeath, to my cousin, John Aspden, in London, I give and bequeath one hundred pounds; to my cousin, William Aspden, residing at or near Great Harwood, in Lancashire, one hundred pounds. To my two cousins, Thoms. and Wm. Nathaniel Aspden, sons of my uncle, William Aspden, residing in Lancashire, in Old England, one hundred pounds to each. I bequeath to sisters of the above Thoms. and Nathaniel, Elizabeth Corlies and Ann Aspden, the sum of one hundred pounds to each. I bequeath to the sister of the *and* above mentioned William Aspden, married to Dougdale, formerly residing in Little Harwood, in Lancashire, Old England, I give and bequeath one hundred pounds. My plate I give and bequeath to my brother, James Hartley. And nominate my much

esteemed friend and relations, Joseph Harrison, James Hartley, and Jacob Cooper, executors to this my last will and testament.

My brother, James Hartley, I leave my residuary legatee, to whom I give and bequeath all the rest and residue of my estate.

3.

Will of Matthias Aspden, in handwriting of Peter Thomson.

Be it remembered, that I, Matthias Aspden, of the city of Philadelphia, in the province of Pennsylvania, merchant, intending to cross the seas on a voyage to Great Britain, and being at this time in bodily health, and calling to mind the certainty of death, and considering the uncertainty of the time thereof, do make and put in writing this my last will and testament, in manner and form following, that is to say: First, my will is, and I do order and direct my executors hereinafter named, to pay and discharge all my just debts and funeral expenses as soon as possible after my decease, and to dispose of and sell my whole stock in trade with all convenient speed, and to collect in all the moneys that may be owing and payable to me by persons residing in America, and likewise to use their endeavour to collect and obtain the respective balances of accounts due and payable to me from persons residing and being in Great Britain and Spain, in order to enable them the better to discharge and pay the several legacies I have hereinafter bequeathed; but if that cannot be fully done, then to pay them in the like proportion as far as the moneys by them to be received will admit of. Item, I give, devise, and bequeath unto my three nephews, Joseph Harrison, Matthias Harrison, and George Harrison, (the sons of my sister, Mary Harrison,) my house and lot of ground where I now dwell, on the east side of Water street, in the city of Philadelphia, with the appurtenances; and also my plantation in the county of Chester, and province of Pennsylvania, with the appurtenances; to hold to them, my said nephews, Joseph Harrison, Matthias Harrison, and George Harrison, their heirs and assigns forever, to be equally divided between them, part and share alike as tenants in common. I also give and bequeath unto my said nephews, Joseph Harrison, Matthias Harrison, and George Harrison, the sum of four thousand five hundred pounds, money of Pennsylvania, to be equally divided between them. Item, I give and bequeath unto my two nieces, Mary White, (the wife of the Reverend Mr. William White,) and Ann Harrison, (the said Mary and Ann being the two daughters of my sister Mary Harrison,) the sum of three thousand pounds, money of Pennsylvania, to be equally divided between them, my said nieces. Item, I give and bequeath unto my three half-brothers, Roger Hartley, James Hartley, and Benjamin Hartley, the two first of whom now residing in Pennsylvania, and the other and latter residing in Haddonfield, in West New Jersey, the sum of three thousand pounds, money of Pennsylvania, to be equally divided between them. Item, I give and bequeath unto my said half-brother, James Hartley, all my silver plate. Item, I give and bequeath unto the four children of my sister, Ann Hinchman, deceased, the

sum of five hundred pounds, money of Pennsylvania, to be equally divided between them. Item, I give and bequeath unto my two half-sisters, Bersheba Zane, (the wife of Elnathan Zane,) and Rebecca Kay, (the wife of John Kay,) both residing in and near Haddonfield, in West New Jersey, the sum of one thousand pounds, money of Pennsylvania, to be equally divided between them. Item, I give and bequeath to my aunt Margery Bailey, in or near Simonstone, in the county of Lancaster, Great Britain, the sum of two hundred pounds, money of Pennsylvania. Item, I give and bequeath to my cousin, John Aspden, of London, the sum of one hundred pounds, money of Pennsylvania. Item, I give and bequeath to my cousin, William Aspden, in or near Great Harwood, in the county of Lancaster, Great Britain, the sum of one hundred pounds, money of Pennsylvania. Item, I give and bequeath unto my two cousins, Thomas Aspden and Nathaniel Aspden, (sons of my uncle, William Aspden,) residing in the county of Lancaster, in Great Britain, the sum of one hundred pounds, money of Pennsylvania, to each of them. Item, I give and bequeath unto my two cousins, Elizabeth Corley and Ann Aspden, (the daughters of my said uncle, William Aspden,) the sum of one hundred pounds, money of Pennsylvania, to each of them. Item, I give and bequeath to the sister of my said cousin, William Aspden, of Great Harwood, that intermarried with Dougdill, formerly of Little Harwood, in the county of Lancaster, in Great Britain, the sum of one hundred pounds, money of Pennsylvania. And if there shall remain anything after payment of my just debts and funeral expenses as aforesaid, and the legacies I have hereinbefore given be fully paid and discharged, then it is my will that the remainder and residue of my estate shall go to, and I do give and bequeath the same unto my said three nephews, Joseph Harrison, Matthias Harrison, and George Harrison, to be equally divided between them, part and share alike. And I do nominate and appoint my good friends and relations, the said Joseph Harrison, James Hartley, and Jacob Cooper, all of the city of Philadelphia, to be the executors of this my last will and testament, hereby revoking all former and other wills and testaments heretofore by me made, and do declare this only to be my last will and testament. In witness whereof I, the said Matthias Aspden, the testator, have hereunto set my hand and seal the twenty-fourth day of March, in the year of our Lord one thousand seven hundred and seventy-six.

Signed, sealed, pronounced, published, and declared by the said Matthias Aspden, the testator, as and for his last will and testament, in the presence of us, who have subscribed our names hereunto as witnesses in his presence, and at his request.

THOS. W. SMITH.
SAML. GARRIGUES, JR.
RICH'D RUNDLE.

My name tore out by me, and declared void by me.

MATTHIAS ASPDEN.

Letter. Matthias Aspden, Philadelphia, to H. & W. Wallace, New York.

PHILADELPHIA, *May 6th*, 1776.

MESSRS. HUGH AND ALEXANDER WALLACE.

GENTLEMEN: I make no doubt the receipt of this from hence will not a little surprise you. Your particular civilities, and the share you took in assisting me to get a passage in the packet, demand my giving you a candid account of my situation since I had the pleasure of seeing you in New York, and the occasion of my disappointment.

The next day after I went down to the Narrows with the Mayor, towards evening, I went on board the packet in a small canoe, with Mr. Campbell, the Mayor intending coming on board the Duchess next morning; after getting on board the packet, I immediately stepped into the boat belonging to her, and went and waited on the Governor—informed him of Mr. Matthews being at Denio's, and his intending coming on board the next morning; after some other conversation on indifferent matters, I took out my pocket-book containing what papers I had, and desired his Excellency would inspect them, if he thought it necessary, and enclose them to Lord Germain, these being part of the conditions, the whole of which you are already acquainted with, on which we were to go; his Excellency made answer and said, that there was no occasion of doing it just then; that the packet would not sail for these few days, and he would take another opportunity; upon this I mentioned nothing further respecting it, but went on board the packet, where the Mayor came before he went to wait on the Governor, and also returned after he had been, before he went on shore; he informed me agreeable to what I had desired; he mentioned to the Governor letting Mr. Potts and Mr. Lloyd go in the packet, without taking the oath, but would not consent to their going, nor to any other person, except those he had before given his word should go without taking it. I relate this circumstance as a confirmation that I then understood I was to go on the conditions his Excellency first mentioned. I accordingly made myself easy; not even suspecting, or having a doubt that any further difficulty would arise. In this, however, I was mistaken. The day week following my going on board the packet, the Governor having finished his despatches, sent for the passengers to come on board the Duchess of Gordon. I went along with the rest, thinking, from the report that prevailed on board the packet that she was to sail the next day, or day after, that it was to take our leave of his Excellency; but to my astonishment, Governor Tryon soon unravelled this matter, and informed Mr. Warder and myself that he could not suffer us to go in the packet, unless we would take the oath he should administer to the

rest of the passengers; being same which I informed you of before Mr. Matthews went down. We replied to his Excellency that it was exceedingly hard that he should insist on a matter of this sort, after the assurance he had given to the Mayor of the city of New York that he would dispense with the oath in particular to us; urged several other reasons of the probable consequences that might follow on shore, if it should be known there of our taking such an oath; to which his Excellency made answer that it was unnecessary using any further reasoning on the matter; that nothing less than our taking the oath would satisfy him; that he was sorry his duty compelled him to such a measure; and alleged, as his reasons for this conduct, the firing on the people at the watering place; my getting leave to have stores sent down for our passage home, when neither he nor the commanders of majesty's ships could get any. Mr. Temple's behaviour, and my going to Elizabetown, which was entirely on account of seeing Mr. Duyckink, and which I believe I mentioned in the course of conversation speaking of the number of men stationed in the town; the mere speciousness of these reasons, without drawing any conclusion, I leave you to judge of. After this conversation passed, he told us his boat should put us on shore at any time. I, for my own part, was so surprised at this breach of the Governor's promise, that I could not bring myself to think that he would persist in not suffering us to go without taking the oath, but returned on board the packet, intending waiting on him again the next day, convinced that the hardship of our case must appear obvious to the whole fleet, and that probably some hint of it might be dropped which might induce his Excellency to think better of it, and let us go upon the first conditions that were mentioned. Mr. Warder and myself accordingly waited on Governor Tryon the day but one after such answer, and if he would not dispense with the oath, to get put immediately on shore. He told us they could not think of dispensing with it; and that as soon as a flag of truce should come from New York, which he had wrote to the Mayor to send for old Dobb's things, and expected on Monday or Tuesday, (it being Saturday when this was mentioned to us,) we should go up to town per that opportunity. This being the case, we returned on board the packet again, where we waited impatiently for the flag's appearing, but had no sight of all Tuesday, and on the afternoon of same day was told that Governor Tryon had determined we should stay on board until the packet sailed, which freed us from thinking any thing further of a flag's coming would [be] of any service to us. The disagreeableness of our situation, staying in on board without any expectation of going—joined to our living on the fresh stores, of which there appeared, from the uncertainty of her sailing, not more than was necessary for the passengers that went, induced Mr. Warder and myself again to wait on the Governor the Saturday following, requesting that he would put us on shore, representing to him the reasons which made us desirous of his obliging us in this particular. He then very plainly told us that he could not comply with our request until the packet sailed; that we

were exceedingly welcome to bring our baggage and come and stay on board the Duchess until the packet sailed. We thanked him for the compliment, but told him the gentlemen made us very welcome on board the packet, and that we would go and remain there; which we did until last Friday morning, when she left the Hook. We then went on board, and would have been glad to have got ashore immediately, but his Excellency insisted on our staying until the next morning, when he sent two of his servants with a flag of truce, and landed us on the Never Sink shore. The boat was immediately sent back without molestation or hindrance. The people on shore treated us very civilly; and as soon as we had dined, got a small wagon and went to Middletown, where we waited on the committee, to whom we showed a certificate setting forth our reasons for coming on shore, and some papers from the commanding officer and committee of New York, which appearing to them satisfactory, we were suffered to pass without further trouble.

In justice to Governor Tryon, I must acknowledge his behaviour, in every other respect except breaking his word, and detaining us on board the packet, was polite and civil. I must also inform you all the other gentlemen in the fleet, particularly the commanding officers of his majesty's ships, the Asia and the Phœnix, treated us with every degree of civility we could expect. They appeared to be [of] opinion that the Governor's oath was unnecessary, and if it had, they thought as to us, whom the Governor had given his promise should go without taking the oath—it was wrong he did not do it. Capt'n Parker would have given us a passage in one of his prizes to Halifax, but I did not choose to accept of it for two reasons—first, I knew it would be making a difference between the Commodore and Governor, who look upon it [as] a step taken to evade the oath, and of course might throw some blame on Capt. Parker, in giving encouragement to attempts to counteract the measures he [had] taken for the service of government. 2d. The situation I then was in; this was a matter I had carefully to avoid.

Another reason why I did not chose to go pr. that way was, I knew the Governor could very easy write, and acquaint the commanding officer with [the] view that took me that route, and the reason that occasioned it; but as another matter which had its full share of weight, I knew it was not the line of conduct I had to observe, if the Governor would not let me go in the packet; and if I had gone to Halifax, it would have been construed in the most unfavorable light by my fellow-citizens ashore, and many things said that might have been much to my prejudice.

Though *they* disappointment of my not going in the packet I very sensibly regret, as it was private business of some moment that induced me to think of going, in the present situation of affairs, the account of Governor Tryon's conduct I have endeavored to give with decency and a strict regard to truth. I should not chose any part of this letter should

be published, but should be obliged to you if you would please to show it to Mr. Mathews, or any gentlemen you may think proper.

I should also be glad you would mention to Mr. Duyckink, that I will take, as payment for the bill on him, continental money at the current exchange. I do this to serve my friend.

I remain, with sincere regard, gentlemen, your most obedient and very humble servant.

5.

H. Wallace, New York, to Matthias Aspden, Philadelphia.

NEW YORK, 13 *May*, 1776.

SIR: I received yours of the 7th instant with astonishment, and cannot imagine what could induce Governor Tryon to behave in so strange a manner. I have not seen him for some time past, and until I got your letter imagined you sailed in the packet. I think myself injured by the treatment you have met with, and will not forget it. Sorry I am that my intentions to serve you and Mr. Warder, (to whom please make my compliments,) have not been attended with success.

The bill on Mr. Duyckink is not yet due. Mr. Mathews has protested it for non-acceptance, and I fancy must do the same for non-payment, as he tells me Mr. Duyckink said the exchange was now too high to pay it.

I am, sir, your most humble servant,

HUGH WALLACE.

Excha. 100 pr. ct.

Endorsed—Mr. Mathias Aspden, merchant, Philadelphia.

6.

H. Wallace, N. York, to Matthias Aspden, Philadelphia.

NEW YORK, 20*th May*, 1776.

Mr. MATH'S ASPDEN.

SIR: I received your favor 15th instant. Your apology for Governor Tryon's strange behavior (in promising to let you go to Europe in the packet without taking the oath he required from the other passengers, and insisting afterwards on your taking the oath, and on your refusal obliging you to go on shore,) is very kind, and more than I think he deserves. But this is a matter for future consideration.

I observe your intention of going to Europe by first opportunity. I see little hopes of your getting there in any American merchant ship. Going to the West Indies is the safest and surest method. A ship is now almost ready to sail from hence for Lisbon with wheat; will sail in 3 or 4 days through the Sound; but I would not recommend that route to you. If you should be taken on your passage, and carried into Halifix, apply to Lieut. Governor Franklin, or Mr. Gould, the secre-

tary. If you are carried into Pensacola, apply to Mr. Phil. Livingston, secretary there, or to Major Dixon, of the 16th regiment. If to St. Augustine, to Robert Catherwood, esq. On showing them this letter, they will, on my account, shew you all the civility an honest man, a respectable merchant, and a friend to his King and country has a right to. If you are not in a great hurry, I think a packet, or some King's ship or transports, will be sent to England from some of the ports to the west or east of us soon, probably from Virginia, and I think you might procure a passage in them. Mr. Mathews will write you, and send what you desire, and also copy of the protest and charges. The original bill and the protest shall be sent to England agreeably to your former directions. Should you leave America before I see you, I heartily wish you safe, and am, sir, your very humble servant,

HUGH WALLACE,
Merchant, Philadelphia.

Endorsed—Mr. Maths. Aspden, merchant in Philadelphia.

7.

William Priddie, St. Kitts, to Matthias Aspden, Bristol.

St. Kitts, 15*th June*, 1777.

Mr. Matthias Aspden.

(Copy,) Sir:

Yours, pr. Capt. Albro, I have received, as also invoice for sundrys, to my address, which articles I have put into the hands of Messrs. Sharry & Sanderson to dispose of, as I mean to decline trade for a little time, who will do the needful, and hope to send you pleasing sales.

I shall be happy to fix a correspondence with you, on the recommendation of my friends, Messrs. Cowper & Co., and sincerely wish the unhappy disputes with Great Britain and America *was* at an end. I observe what you say with regard to a vessel calling with lime; I would not advise you to speculate in that article to this place; as there has been such large importations lately, do imagine we shall be stockt for some time; as to the mules they will answer, provided you can have a cargo of about 70 or 80 brought here in the months of November, December, or January, and if in good order will turn out to advantage, as they will sell for £20 to £25 stg. pr. head, and pay'e in bills of exchange at three and six months sight; should you be inclinable to speculate that way, will be glad of the earliest advice. As the bread and herrings will sell, shall not ship any by Albro to the Bay of Honduras.

I am, sir, your most obedient servant,

WILLIAM PRIDDIE.

Endorsed—Mr. Matthias Aspden, at Messrs. Lancelot Cowper & Co., merchants, in Bristol. Pr. Capt. Beach, Q. D. C.

8.

Hugh & Alex. Wallace, New York, to Matthias Aspden, London.

NEW YORK, 10*th July*, 1777.

Mr. MATTHIAS ASPDEN.

SIR: We received your favor 2d April, and are much obliged by your kind concern for our safety, and your congratulations on hearing of our return from confinement in Connecticut. Inclosed we return you Lancelot Cooper & Co's bill on Gerardus Duyckinck, with which we can do nothing; we could not protest it while the rebels were in town, for had we attempted it he would have complained to the committee of which he was a member, and they would have obliged you (or us for you) to have taken their paper money in discharge of the bill, notwithstanding the bill is for stg. money. Mr. Duyckinck is still amongst the rebels in Morris county, New Jerseys. There is no communication between this place and that, and were the bill presented to him there he probably would offer paper money, and the person who refused it committed to prison at least, perhaps worse used, for which reason we return you the bill. We shall show Mr. D. Roberts every mark of civility in our power; we had the pleasure of knowing him some years ago, when he went from hence to Canada.

We are, sir, very respectfully, your most obedient servants,

(Duplicate.) HUGH & ALEX. WALLACE.

Endorsed—To Mr. Matthias Aspden, of Philad., at Messrs. John Roberts & Son, merchants, London.

9.

Ben. & Cal. Bewicke, London, to Matthias Aspden, Spa.

LONDON, 26*th June*, 1778.

Mr. MATTHIAS ASPDEN, *Spa.*

SIR: We have received y'r two favours from Bruges & Brussells, and would have wrote to you sooner if we had known where to catch you. We are glad to see you amuse y'rself to y'r satisfaction, and upon ye whole should suppose you will not have reason to repent of y'r expedition, as you will still find many opportunities of making useful reflections.

We have not as yet bought ye Navy bills for y'r accounts, as our broker is of opinion it may yet be done with more advantage.

By ye English newspapers you will have seen yt there are ships of ye line of sufficient force arrived in America to oppose ye Count D'Estaine, w'ch has given us all good spirits, as there seemed to be some danger otherwise. We are assured yt Gen. How writes to ye ministry yt ye provincial army are inclined to accept ye terms sent out whether ye Congress will or not; you can better see ye consequence of it than we do, but shall be glad to see ye army come in without ye Congress.

It's to be hoped ye next news from thence will be a confirmation of this, with account of a treaty begun or concluded.

At last there has been a little affair between some of our ships of Keppele's squadron and some French frigates of war; upon ye whole it appears there are two frigates and a schooner taken, and a frigate sent into Brest disabled. Whether this will bring on a declaration of war or not is difficult to say. As it appears yt ye French began hostilities, there is room for explanations and apologies.

We have not received any letter for you. Wishing you a very pleasant tour, we are very truly, sir,

Your most h'ble serv'ts,

BEN. & CAL. BEWICKE.

Endorsed—A Monsieur Monsieur Matthias Aspden, Poste Restante, Spa.

10.

Lancelot Cowper, Bristol, to Matthias Aspden, Spa.

BRISTOL, *June 27th*, 1778.

DEAR SIR: Not knowing where to address a letter to you after this night's post, for your favor of the 18th curr't informs no farther than Spa, where, I hope, this will meet you in perfect health, as it leaves me, and I believe all your friends here and Redland. I ever considered the French lang'e of material consequence to travellers, (going eastward,) and understand by yours that the want of it has lessened the pleasure the tour to Flanders, &c., affords.

Since the Gazette acc't of the expedition up the river Delaware to Bordentown and Bristol, no material news have been rec'd from America. The commissioners not arrived on the 14th past, what's reported respecting the disposition of Congress to treat with them is little regarded here; the general opinion amongst the thinking men of property in America favors mine, that matters will be settled this summer. It appears as certain that the Congress are divided in their sentiments of the offers tendered pr. commissioners, which is well understood in America by acc'ts sent over; likewise that serious disputes have arose relative to placing Gates in Washington's station. Mifflin I learn has thrown up his com., disgusted that the former is not appointed Generalissimo. R. Peters it's said, with a pretty respectable party of his own turn, labor hard to out Washington to make room for Gates; I need not comment on such an absurdity, farther than hoping it will tend to the end of restoring peace—I mean by the terms offer'd by this country being accepted without alteration. Messrs. Marshall & Weare have not furnished either invo. of the £1,000 insur'ce you ordered them to make on the ship Cumberland, or £400 additional from Jamaica, however their Mr. Weare, who is here, says that both sums are effected; and next week particulars will be sent me. Sheriff Weare is out of town, but as there's no acc't of any part of the fleet in which Corrie sail'd

being arrived at Jam'a, or late dates from that Island, apprehend the Cumberland will not sail in the first fleet from thence. The windward isle convoy was not to depart from St. Kitts sooner than the 15th past. Sharry & Sanderson wrote under date of the 15th March that pr. said fleet they would endeavor to close acc't of your adventure. Per account sales rendered W. proceeds appear £560 10 2, deducting Albro's disbursem'ts of £457 13 8, £102 16 6 is the balance due to you. Mr. Mallard, of the house of Cruger & Mallard, is fail'd for a few thousands—the house continues good. War is soon expected to be declared; two French frigates and an armed King's schooner being taken per Keppell's squadron.

In haste, I remain, dear sir, your h'ble servant,

LANCELOT COWPER.

Endorsed—A Monsieur Monsieur Aspden, à la poste Restante, à Spa.

11.

Ben. and Cal. Bewicke, London, to Matthias Aspden, Spa.

LONDON, *July 17th*, 1778.

SIR: We wrote to you at Spa agreeable to y'r directions, and have rec'd y'r favor of ye 26th June advising y'r bill on us for £63, order of H. Van Schelie & Son, w'ch is paid ye 13th inst. As you do not say how long you propose to stay at Spa, we send this enclosed to Messrs. Jacobus & Johannes Van De Wall & Co., to whom we gave you a letter of credit; and in case you want a credit for any other places they will supply you.

Every thing seems to be in the same uncertain state as when you left England; notwithstanding all appearances, many are persuaded yt at last we shall not have a war with France: we heartily wish yt peace may speedily take place, as it will not answer any good end, but will certainly cost us ye lives of many men, and increase our debt, w'ch is already large enough, and we may find it too large soon.

There is no news from America; it seems certain yt ye troops quit Philadelphia, where many think they should never have been.

We are, very truly, sir, your most humble serv'ts,

BEN. & CAL. BEWICKE.

P. S. We have just received your favor of the 14th inst.; we hope and do not doubt but you will amuse y'rself very well in Holland.

Endorsed—Matthias Aspden, esq.

12.

T. Van Egmont & Son, Rotterdam, to Matthias Aspden, Amsterdam.

ROTTERDAM, *4th August*, 1778.

SIR: Your very much esteemed favors of 3 currant came duly to

hand this morning, and in reply, the present, according to your desire, serves to acquaint you there are no Dutch vessels of any kind going from this port to England as yet, nor any appearance of any going hitherto. We spoke with the broker of the London traders, who says the sloop on the birth now will lay here till the latter end of next week, but can't say whether she will then go with or without convoy; they'll see what turn matters take in the mean[time.] Navigations begin to turn vastly perilous now. We learn when our Jews want to go over, they freight a fisher's boat on the coast side; but you may easily judge they are not very fitt for accommodating passengers; by what is said may regulate yo'r good self. Mean time wishing you well over again, and that every thing good may attend you, we remain,

With regard, sir, your m. h. servants,

T. VAN EGMONT & SON.

Endorsed—To Mathias Aspden, esq., at the Star in the Ness, à Amsterdam.

J. & J. Van de Wall, Amsterdam, to Matthias Aspden, London.

AMSTERDAM, 28*th August*, 1778.

MATTHIAS ASPDEN, esq., *London*.

SIR: We are favored with your esteemed letter of the 21st August, and perceive with great pleasure your safe arrival in London, after a short passage of twenty-six hours, being much obliged to you for the particulars of what happened at sea; and it gave us great satisfaction that you came over without any disagreeable rencounter. The little civilitys it was in our power to show you during your stay at this place do not merit the acknowledgments you are so kind as to make; we could wish to have in future more opportunitys to give you proofs of our regard and affection, being glad that by the letters you received from your friends you found they all were still in Philad'a, where we hope you may be so happy as to meet them once again; and beg to be persuaded that at any time you will find us ready to render you any service in our power.

We have no particular news to mention from these quarters. It is expected that there will be soon a decisive battle between the English and French fleet, whereof you will be sooner informed than we; several prizes have been made from both sides, and yet it is in our opinion very uncertain whether a declaration of war will take place or not.

We sincerely wish you health and happiness, and have the honor to remain, with real regard, sir, your most obed. humb. serv'ts,

JACOBUS & JOHANNES VAN DE WALL & CO.

Endorsed—To Matthias Aspden, esq., at Mr. Lowe's, in Queen square, Bloomsburg, London.

14.

Matthias Aspden, London, to J. & J. Van de Wall.

LONDON, *November* 30, 1779.

Messrs. JACOBUS & JOHANNES VAN DE WALL & Co.

GENTLEMEN: I duly received your esteemed favor of the 19th, in answer to mine of the 9th instant, and am extremely obliged to you for the very particular manner in which you have replied to the matter it requested. I have communicated the same to my friend, who regrets that the very low interest, together with the uncertainty of even then being employed to yield this sum you mentioned, scarcely makes it an object to remit what he intended, until he hears further from his correspondent, to whom he means to write the first good opportunity.

I nevertheless cannot help congratulating you as one of a people among whom money is so plenty, the true sign of a rich and flourishing nation, who have only to pray the same wisdom may continue in their public councils which has produced such happy effects, and their prosperity in all probability will last for ages yet to come.

Our last Gazette announced a severe disaster which had happened to the fleet of Monsieur D'Estaing on the coast of Carolina, the 4th September, which, in all likelihood, will defeat his expedition. Should it be the case, it m. probably lower a little the ambition of our Gallic neighbors, (for America, like his Majesty, I now consider out of the question,) and lead them to serious disposition for peace, is which I anxiously wish may very soon take place. You will please to excuse my troubling you with politics, but being an idle man until I can return to America, they will unavoidably force an observation or two now and then, from being the chief objects of attention, when perhaps it had better been let alone.

I am glad to hear you enjoy a good share of health; I wish I could write you I did the same; but a bilious complaint, which has attacked me this some time past, will induce me in a day or two [to] set out for Bath to drink the waters for a few weeks, reckoned extremely beneficial in disorders of that kind. Can I be of any service to you at Bristol, which is only 12 miles distant, during my stay, where I have a very respectable acquaintance, it will afford me much pleasure. You will also greatly oblige *oblige* me, if there should be a late arrival at your port from any part of America, particularly Philadelphia, and a paper should fall into your hand of a late date, you would enclose to me at the Grove Coffee House, Bath.

15.

J. & J. Van de Wall to Matthias Aspden, London.

AMSTERDAM, 18*th January*, 1780.

Mr. MATTHIAS ASPDEN, *London.*

SIR: In answer to our last of the 19th October, we received in due

course your favor of the 30th November, and are obliged to you for its friendly contents. We did not answer directly to it, as we had nothing new to communicate you from America. At present we have before us your kind letter of the 12th instant, covering two encloseds for near relations of yours, which, as there are at present no vessels going direct to the port of Philadelphia, will send by one bound for St. Eustatius, under cover of some friend, with the strongest recommendations to forward the same in the securest manner, that they may get safe at hand. We hope to have soon open water, and then doubt not there will be opportunity of a ship going there. The postage we paid, but is a trifling, and we will find it in course. Wishing that matters may take a favorable turn to make us able, and afford us opportunity to enter in a mutual, agreeable, and useful correspondence; mean while, it gives us pleasure that the better state of your health permitted you to stay in London, and hope you may be soon entirely recovered. We wish you this new year, and a series of ensuing, full of happiness, and have the honor to remain with sincerity and great regard, sir, your most obedient humble servant,

JACOBUS & JOHANNES VAN DE WALL & CO.

Endorsed—To Mr. Matthias Aspden, at No. 13 Norfolk street, in the Strand, London.

16.

Matthias Aspden, London, to Rev. Wm. White.

LONDON, *July* 10, 1780.

Rev. Mr. WM. WHITE.

DEAR SIR: I embrace the earliest opportunity of acknowledging receipt of your letter 28th March, and also one for Mr. James, who being dead as advised you in March last, I handed it to his exr. the Rev. Mr. Carr, whom I am sensible will pay implicit attent. to every *attention to every* thing therein directed, but it is to be regretted, as things have turned out, that you did not put the names of two persons in the power of attorney sent, to have acted jointly or separately for fear of mortality. It will be necessary, upon receipt of this, that you send a second power of attorney for the purpose of receiving the rents of the several houses, &c., or otherwise the tenants may think it not safe to pay their rents, for want of a legal discharge. I am exceedingly happy to hear that your situation, considering the times, is comfortable; and sincerely congratulate you upon the addition to yr. family since my leaving America. It would give me pleasure to embrace them soon; but how to dispose of my property on this side, so as to admit of my return, appears at this time a matter of considerable difficulty. You may confide in my attention to your interest in advising or consulting with Mr. Carr on any matter that may either tend to promote or take proper care of it.

I beg my love to Mrs. White and the little family—remaining, with sincere esteem, yrs. affec.

P. S. I wrote J. H. the 6th inst. via N. York; and the 20th ult. via St. Eustatius. Please to inform him his estate being copy-hold, takes away much of the difficulty in making a sett. by power of attorney. I apprehended in my letter of the 6th, the one brought by M. Duchie is authenticated as far as it can be; and shall proceed, if Mr. Fletcher does not very soon render me up an acc't of stewardship to compel him, expecting the means in my power. Shall also take steps to carry it into execution J. H's further directions, (but it is not the best time to sell estates,) there will be to immediately write to a person of credit in Whitehaven, (where power should been first sent,) in whom I can have confidence, to view the premises, 7 or 8 miles distant, inform me of the condition, value, best mode of settling, contentment of a purchaser, with admission and surrender into the Lord's court by letter of attorney for title, value of premises, two years hence, supposing peace. On an answer to these propositions shall fix in my mind which to do; but the distance being great, it will require some time to bring things to a conclusion. I shall write to J. H. soon.

17.

Matthias Aspden, London, to James Hartley.

London, *July* 10, 1780.

Dear brother: The receipt of your letter of few days ago, of the first of May, afforded me much pleasure; it being the first that has come to hand since Sir W. Clinton's evacuation of * * *. I am exceedingly pleased to hear that you are engaged in doing some little business, and sincerely wish the new firm much success, to whom shall very soon take an opportunity of writing. Your information of friends in general being well, gave me much satisfaction ; with respect to myself, my health is tolerable, but situation much the same it has been, without an object—awkward you will suppose from this circumstance, and full as much so from not knowing in what place to fix—you will conclude that this is a state which no man who has a choice can remain in long. My next may know my mind more full on this head. I wrote J. H. the 20th ult. via St. Eust., and on the 28th via New York; have also *wrote* of this date to the Rev. Mr. W. Acquaint the former I am paying every possible attention to his affair in the north, and expect to write him soon of they being on a line of settlement. Make my love at home, and remr. to all friends and relations.

18.

Matthias Aspden, Bristol, to H. & A. Wallace, N. Y.

Bristol, *Sept.* 3, 1780.

Messrs. Hugh & Alex. Wallace.

Gentlemen: I was agreeably favored with yours of the 1st July, a

few days agoe, acknowledgeing receipt of mine of the 5th Apl. last, enclosing a letter for Philad., which I was glad to find you would be able to forward. I came down from London to this city abt. a month agoe, partly upon some little buss., and partly to change the scene for a few weeks. Shall return soon, and wait for peace, that I may go back again and reside if possible in my old habitation. Living upon an income arising from little property lodged in this country, and not engaged in business, can say little to you on this subject.

The strong confederacy of the northern powers indicate something of importance, whether a general peace or war a short time will determine. Flattering myself that this will find you and family in good health, I remain, gentlemen.

19.

L. Cowper, Bristol, to Matthias Aspden, Whitehaven.

BRISTOL, 19*th October*, 1780.

DEAR SIR: Believing from sundry circumstances that friend F. inclined to trifle with you, I am the more pleas'd to find, by your favor of the 12th, that you had settled with him so well; an essential service to your relation.

A letter forwarded to you on the 9th curr't is the only one to my care for you since leaving Bristol, besides two now to be enclos'd from T. Williams, as I think.

Boston papers of later dates led me to suspect what you tell me has happened concerning yourself, which I am really sorry to find is become a most serious matter. Your mind of course is much exercised on this matter, and in no common suspence how to determine whether it's better to return to America by April, or continue in a country which, in my opinion, you've no particular attachment for, beyond the wish of enjoying that quiet w'ch the commotions prevailing in America when you left it denied you. It's true, the deprivation of your relation's society, together with loss of material property, are trying circumstances; yet if any ignominy attends your return, by imputation, for no other can it be, I should incline to continue in England, lest the affairs of America become, through French policy or some other cause, more and more distressing. My br*** has been wind-bound at Falmouth near 6 weeks, on his way pr. pacqu* for New York; he keeps good spirits, which I cou'd not support half so well on a voyage at this season of year in time of war.

I remain, with esteem, dear sir, your h'ble servant,

LANCELOT COWPER.

Endorsed—To Matthias Aspden, esq. To the care of Mr. Hartley, Whitehaven, Cumberland.

20.

Matthias Aspden, Whitehaven, to —— ——.

WHITEHAVEN, *Oct.* 21, 1780.

DEAR SIR: I rec'd your fav'r of the ——, desiring to know the substance of some letters I had received from Philada. In answer, they were from different relations, who mention the proclamation of the council of Pennsylvania, touching us and some other of our friends, as a measure exceedingly rigorous and unexpected. The encouragement they give me to return does not appear general, but much as they have been back. With any, their opinion of safety must be matter of belief; and, as you observe, the times are too critical to trust a great deal to faith, let alone the circumstance of holding up the hand.

I lament much the severity of our fate in this insta., more particularly so the case of some others. The business that called me here has detained me longer than I expected, but know of nothing at present that will prevent my setting out for London on Tuesday se'night, where I shall very soon see you after my arrival. In the interim, join you most heartily in wishing better times and fairer hopes.

I remain, dr. sr., yr. ob'dt h'ble serv't,

MATTHIAS ASPDEN.

21.

Lancelot Cowper, Bristol, to Matthias Aspden, London.

BRISTOL, 30 *June*, 1781.

DEAR SIR: Three days ago I met your favor of the 23d instant, and on the 28th, your trunk was forwarded, properly directed, by James's wagon, which inns at the Three Cups, Bread street.

Your present dilemma may properly be compared to a guinea, &c., on even beam; I mean while you continue undetermined whether to remain on this side, under one consideration, or return to America; and who are capable to advise thereon? Perhaps the letters you expect from the other side may soon appear, and fix or assist your resolves on this head.

Mr. Maskelyn of late has been in the country; his partner, Mr. Williams, does not know the counsellor's name imploy'd on the late Mr. Griffith's affairs; when Mr. Maskelyn comes to town, will know it, and advise in my next. Interim, I am, with esteem, dear sir, your most h'ble serv't,

LANCELOT COWPER.

Endorsed—To Mr. Aspden, at Mr. Maddox's, No. 3, Surry side, Westminster bridge, London.

22.

Rev'd William White, Philadelphia, to Matthias Aspden, London.

My dear sir: It was not till two days ago that we were informed of your resolution on the subject of the council's proclamation; before ye rec't of this, you must have heard of ye extension of the time; on so delicate a subject it is difficult to advise; I will therefore only inform you that all who were in circumstances similar to yours, that is, who were called on merely because of their living under the protection of British authority, without having acted in arms, or taken a civil office, have been discharged on their appearance before the judges of the Supreme Court. Could any act be charged to you which might even wear the face of treason, I should be very clear in cautioning you against coming; and if you cannot, on your arrival, entirely acquiesce in ye late revolution, it would be best for your peace of mind to stay where you are.

I am much obliged by your attention to my affairs. I wrote particularly to Mr. Carr, last fall, by Mr. Hazlehurst; we have heard of that gent'n's arrival in Holland; so that I soon expect to hear from Mr. Carr, (thro' him,) of ye event of ye measures I have adopted; in ye mean time, sh'd you see that gent., make my affectionate comp's to him.

Mrs. White sends her love to you; she and my four little ones are in good health—so is

Your aff. friend,
W. WHITE.

Philada., July 21, 1781.

Mr. M. Aspden.

P. S. There are two vessels sailing for Nantz; this goes by Mrs. Montgomery in one of them, and a duplicate by Mr. Griffiths in the other. If a change of times will permit Mr. G. to visit England, any civilities you may be pleased to show him will be well bestowed, as he is a very deserving young gent. He is nephew to Mr. Powel.

Sh'd Mrs. Montgomery be taken and carried into England, no doubt her sex, and your former acquaintance, will engage your attention to her.

Endorsed—Mr. Matthias Aspden, London.

23.

Rev. Wm. White, Philadelphia, to Matthias Aspden, London.

My dear sir: I just now rec'd your kind letter, dated June 25 last, and an immediate opportunity to Nantz induces me to enclose an answer under cover to our friend George.

I am sorry your apprehensions of returning were greater than the situation of affairs here rendered necessary. I wrote to you several times fully on the subject, particularly by Col. Laurens, who was

informed of ye purport of ye letter, and desired not to destroy it in case of his capture. On hearing of his being taken, I presumed it would reach you, but suppose it failed from want of good nature in those who had ye handling of his papers. Afterwards I neglected writing, from an expectation of your having left England.

From ye law principles said to prevail here, I believe that sh'd you hereafter return, ye attainder would not be considered as valid so far as respects your person, because you left this State before the construction of the new gov't, wh'h was some months after ye Declaration of Independence. I am told that a man tried for treason was acquitted on this distinction by direction of ye court; so that it is probably the only loss you will sustain is that of your house and store, as I understand from Mr. Hartley. Among many reasons for wishing an happy issue to ye present negotiations for peace, is that of your return, w'h however had now be best delayed till that period.

We are all much obliged by your kind advice to George; with w'h I have been made particularly acquainted by a sight of your letter to Mr. Hazlehurst.

You will be so kind as to communicate to Mr. Carr such of this letter as shall relate to him.

I rec'd a few weeks ago his of June 28, 1781. He writes (as do also you) that ye £900 stock was left to my father, in case he survived Mrs. Weekes; but if not to my three sisters. In ye copy of Mrs. White's will, sent by Mr. James, I find it thus expressed: "and at her (Mrs. Weekes's) death, I leave and bequeath to my brother T. W. £900, part of the above stock, at ye price it is at that time"—"and if my brother be dead before me, his part of ye above stock to be equally divided between my said three nieces." As the condition of my father's death before Mrs. White did not happen, it was ye idea of all concerned that ye reversion of this property was in him; but sh'd this be a mistake, is it not a lapsed legacy, sinking into the estate of Mrs. Weeks? I have informed Mr. Morris, and shall inform Mrs. Hall of this doubt. Mr. Carr wishes also information as to ye right of ye legacy of £100 to my sister Charlotte. I conceive a right to it in reversion was in my father from ye time of her death, w'h was in Nov'r, 1776. As to both of ye above cases, I must refer Mr. Carr to advice, as it is in his power to procure ye best; for any peculiarities w'ch may attend funded property are not known here. I do not expect that ye remaining property in the funds will be finally settled before ye accomplishment of peace, nor do I wish it; however, ye sooner ye papers you refer to, as well respecting that as ye houses, are sent, the better.

I am much obliged by Mr. Carr's extraordinary trouble in ye above concerns, and by your attention to them. No doubt, as Mr. Carr has been so kind as to indemnify ye purchaser of one of ye houses, he ought to retain ye money, until ye release is signed; for ye residue as stated in ye acc't, I shall probably draw soon, except for what I have drawn, w'ch beside ye debts rec'd before you wrote, were one bill for

£50, and one for £150; by a mistake, ye letter of advice intended for ye latter, was left behind.

Mrs. White desires to be aff'y remembered to you. I have seen none of Mrs. Harrison's family since * * rec't of yours, otherwise they w'd join her.

I am your aff. friend,

W. WHITE.

Philad'a, Oct'r 1, 1782.

Mr. MATTHIAS ASPDEN.

P. S. This is made a joyful day to ye whole country, by a rain which appears likely to be a settled one, an event w'ch has not happened for many months past. The country is parched to an uncommon degree; ye river is so brackish that they catch crabs at Gloucester. A fire has prevailed these two months in ye pine barrens of Jersey, w'ch no art can as yet extinguish; and a rock has been laid bare a few miles above ye Falls of Schuylkill, marked Anno 1772, from w'ch it is supposed yt a similar drought prevailed in that year.

Endorsed—Mrs. Matthias Aspden, to be left with Messrs. John & Robt. Barclay, merchants, Cheapside, London.

24.

James Hartley, Philadelphia, to Matthias Aspden, London.

PHILADELPHIA, *November 20th*, 1782.

DR. BROTHER: Since my last, I have before me your favour of 26 March, also 24th and 25th June, all which came to my hands a few days ago; contents of which I duly note. Am well pleased of the cash you mention being in your hands, but expected the sum was greater; nevertheless am content. In my last gave you information respecting your house, since which it has been let, and the income for the use of the colledge, in which state (as it appears) it will remain. I also informed you I. She will remain in it intill the commiss. took possesion, grounding himself upon a contract *the* made with you, to live in it *until* you return'd to America, rent free; since which the commiss. has brought an action against him for rent, but cannot conceive they can recover any; this is a matter we can say nothing. I make no doubt you have been surpriz'd that I have made no menshion of your place in Chester county, which I now can inform you. To my surprize, about two weeks ago, D. Alexander, (who has liv'd on it ever since you left,) call'd upon me to inform me that the commiss. for forfeited estates had been with him; that the place was yours, which he had just been inform'd by an assemblyman, and of it being forft'd; that he must take notice of it; since which the commiss. was with me, which obli'g me to say I had nothing to say to it, but pleaded your case with him, and of the favourable acc't Capt. Rice had given the council here of you, which appear'd to him to be very hard. I also inform'd him of a bond due A. Leaden, who was

his near neighbour. I imediat'ly gave Leaden notice, (as I also had don respecting the hous,) who call'd upon the commiss. respecting the matter; since which I have not heard a word respecting the matter; therefore cannot inform you what will be the event, but am fearfull it will be sold, which is all I can say. This compleats all your estate here. This I must leave. It would give me much pleasure to be more explicit agreeable to your desire, which I must leave. I have made some enquiry respecting Capt. Allen, whose sister's children now live in Lancaster county, in this State; and have information concerning the estate some time ago, and are endeavoring to procure such proofe as to recover it. I am much oblig'd to you for your care respecting H. Smith, protest'd bill; also T. Franks, as I cannot find it will be in my power to recover any part here. This debt was for the neet proceeds of 10 tun of barr iron, shipt per your ship N.; proceeds about £150 st'g. Your care in the above matters shall be esteem'd a particular favour. Mrs. Harrison and family is all well; I was with her a few days ago, as is all our friends here; and as to our friends in Jersey, Lanes you now formerly, is the same still; his wife is well, and lives in the same place. I. Kay and wife and family well; as to Benjamin's widow, she lives on a small place he purchas'd before his death, near the mill. Still out of Haddf'd, and her seven children, viz., five girls and two boys, excepting the oldest son, James, who is prentice to a tanner at Woodberry, who appears to be a very prudent deserving lad, and has about two years to serve. The hous and tanyard in Haddf'd is let by the widow. Having myself som care over them; and I think on the whole, they all conduct well. As to myself, still continues in partnership with D. Potts; and since my last, injoy a good state of health, as also my wife. We request particular to be rember'd to you. Mr. Cooper and family well, as is also Daniel and R. Rundle. Your old friend Wm. Mutrie, who in a few days take unto him wife, daughter of Mrs. Gorden, near Frankford. Isaac Wharton still single, and well. I could say much more to you respect'g matters, but must leave to future, when I make no doubt things will appear in such a light as to give you better satisfaction respecting my conduct, for a breast of greater attention to serve you cannot exist; and remain with much esteem, your most sincere and affect. brother,

JAMES HARTLEY.

Endorsed—To Mr. Matthias Aspden, London. Forwarded by y'r h'ble serv't G. H.

25.

Matthias Aspden, London, to James Hartley, Philadelphia.

LONDON, *Decem'r* 12, 1782.

DR. BROTHER: In hopes when this letter reaches New York, there will be little difficulty in its getting to Philad. I wrote you a few lines to say to you I am well, and to acquaint you that every thing here

just now has the flattering appearance of a speedy and general peace. Perhaps the packett is only detained for the final conclusion of it, to carry you over the news. Should it not be the case, I will doubt the issue of what is going forward.

There are passengers in the packett, I am told, for Philad. The gave themselves no trouble to let me know the were going, tho' I believe the knew me; so that I had not an opportunity of seeing them, or should have wrote more generally. Tell Mr. W. his letter was recei'd and a copy of as much as he desired sent to Mr. Carr, and that every attention will be paid to the contents of it. Be candid, and tell me in your next, whether a person who formerly lived in Philad. can return and live with comfort in it again, knowing in what hands power must rest, and being disposed to conduct himself on fair and honest principles. In a word, what protection is the person and what security the property of the subjects in much or little: be circumspect in yt order for goods, yt country is only look'd upon as property, and the people so much as the can be turn'd to ans.

Tell my sister W. that I had a letter from George a few days agoe, when he was well. If peace takes place, expect I shall see him soon in England.

Write me fully in your next on the subject of return. The manner in which I have wasted the prime of my youth here has been grevious, tho' not to be help'd, as I was circumstanced; therefore do not reproach myself; nor do I expect, if I return to America, I can lead a very pleasant life. Comfort I believe is not for us in our day.

Make my affectionate remembrance to all relations, &c.

I am, y'rs, affect't,

MATTH'S ASPDEN.

26.

James Hartley, Philadelphia, to Matthias Aspden, London.

PHILAD., *January 8th*, 1783.

DR. BROTHER: I herewith inclose you duplicate of my last, since which am without any of your favor; and not having any new matter to communicate to you, therefore must inform you that every thing remains as I have alreddy wrote you. As there has nothing been said or don respecting your planta'n since, therefore must leave for all other informashion to those persons you should hear of that may happen to come from this place amongst you.

Mrs. Harrison, Mr. White and family, all well, as is all our friends here, also in the Jersey. Most sincerely wishing this may find you in a good state of health, as it leaves us, in which my wife joyns, with request to be remember'd to you (being all my family,) and remains with all due attenshion, your most sincere and affect. broth.

JAMES HARTLEY.

N. B. I have omit'd to inform you of the death of Jeremiah Warder, sen'r, on the 4th instant; also Charles Meredith, the same day. All the rest of our friends well, par. Mr. D. and R. Rundle, old Mr. Dechea, S. Shewell, &c. Having prevail'd upon Cap. R. Shewell, commander and owner of a large ship bound from this port to France, to take charge of this, and on his arrival to forward it to you perhaps. I. Kay, as I was in Jersey a few days ago, being well, and wife having since you left us, in the family way increasing, have now 9 or 10 children. But since the troubles, have increas'd his forten; but for my part, have rather decreas'd, owing to paper money, which by law I was oblig'd to receive when greatly deprechiated, but hope to make it up in a long run.

27.

Lancelot Cowper, Bristol, to Matthias Aspden, Bath.

BRISTOL, *February 5th*, 1783.

DEAR SIR: Altho' conscious that I had not, and in the belief that none of my family ever deviated from the respect you've a right to claim from us, yet I was somewhat uneasy until I rec'd your last favor of the 31st past, lest from a wanton turn of some person or other, unjust impressions had latterly been attempted at the expense of truth, &c.; however, these suggestions are dispell'd by your being satisfied on the matter hinted in your former favor, dated 27th of last month.

I note that you have in contemplation purchasing a vessel and to accept freight for America by and bye; Capt. Smith has inform'd Mr. Beddome his bying a ship in London which is allready up there for Philadelphia. As such, conclude that a clear path is struck out, suppose by means of passports granted by Dr. Franklin, &c. Also safe ones from above. These matters perhaps you are apprized of from London friends. Mr. Joseph Smith, as I am informed, has purchased an elderly ship of about 160 tons, which is intended for * * * York directly, suppose partly on freight, (the terms I know not.)

Many inquire to know if any vessell is soon intended from hence to Philad. The chief are in the window glass way, with others who have orders, and pretty liberall ones, from Mr. J. Warder and others. My answer to such inquirers is, that as soon as the way is clear to send goods for Philadelphia, apprehend a proper vessell may offer. These things I throw before you to shew the expectations of a trade to Philada. being sooner than you seem to think, when you mention five or six weeks, to know whither a proper vessell offers on your plan. At present I know no such as you mention, and judge it material for you to know the freight offering, with the terms, &c.

Queensware, with sundry bulkey articles, (to be well purchas'd here,) no doubt will afford dispatch, even for a pretty stout ship, in case one should put up here, more than 1000 boxes of glass being intended.

I've considerable orders from the Paschalls and Mr. Hillburn, but dare not ship 'm before I hear from said gentlemen.

Enclos'd are inventorys of three of five vessells for sale soon; the brig Colombe seems a clever one. Please refer to the remarks made on inventory, by, dear sir, your humble servant,

LANCELOT COWPER.

Endorsed—To Matthias Aspden, esq.,
Grove Coffee House, Bath.

28.

James Hartley, Philadelphia, to Matthias Aspden, London.

MARCH 6, 1783.

DEAR BROTHER: Having wrote the above,* and expected Capt. Shewell would sail'd immediately, but the winter having detained him, since which have wrote you several letters in February, informing you that as I still am in partnership with David Potts, firm of the hous Hartley & Potts, that if any of your friends or self have any commands in the commission way here, shall be glad to render you or them any service in our power, as we have great talk of peace taking place. I must now inform you that every matter remains the same. In my last desired you to purchase for me three State lottery tickets, on the best terms you can, informing me the amount, also the numbers, being for self and others. Hoping this may find you in health, as it leaves me and mine, who joyns with much sincerity.

Your most affectionate brother,

J. HARTLEY.

I have never had a line from you since June last.

29.

James Hartley, Philadelphia, to Matthias Aspden, London.

PHILAD., *July 8th*, 1783.

DEAR BROTHER: Having wrote you several different favours, and in my former, pr. Capt. Faulkner, to him I particularly refer'd you. Your last to me of 2d April I duly note, and am much oblig'd to you for the particulars therein menshioned; since which, and on the arrival of Capt. Smith, who has met with som difficulty here as he had som thoughts of returning to settle here, but we having a new committee here, in order to examine into all persons that should return here, who have been livers among us, to him I also must refer you, as he has been call'd before them several times; and som who have left us several years ago, and now return'd, have been call'd upon and oblig'd to depart in this and other States; therefore, altho' I should be extreemly glad to see you, cannot recommend to you to com here immediately. And as to your planta. it remains the same; also your hous here, and the States receiv'd the rent on the colledg. But Leader's

* See letter dated January 8th, 1783.

affair remains the same, as there has been no talk of sale of any part of your estate.

As to trade, this place, I think, never was so over don; we have a great number of vessells here, some of which must depart in ballace as all our produce is very high, altho' there is now as great a harvest as has been this many years. We have many ships here, and som very large, from different places, Holland, Sweedland, Russia, Prusia, and almost all parts; therefore all kinds of goods are plenty here and lowe, partic. dry goods. I must confess as your inclinashion is for America, is rather hard, as we have still a few hott people among us which I hope will shortly becom more cool, tho' I am assur'd you have many friends here, and would be glad to see you, even among these people. I have also your favour with Bewick & Maugre inclosing me a power of attorney, which came to my hands a few days ago. I find that Benjamin Fuller and the widow of Stocker is execu., but it is impossable to recover any English debts here at present. I have been with Fuller who has promis'd me to examin the acct., and shall do the utmost in my power, which I have wrote them. The mode of sending me the power was very expencive. I got it from our post office, who oblig'd me to pay 28s. sterling; the sum here paid was 46s. 8d. curr., this you must think was very ext. You may depend on it I shall do every thing in my power to serve them; this you may be assur'd shall be my utmost care and attention in all matters that shall come under my notice. Sincrly wishing this may find you in perfets state of health as it leaves us, in which my wife desires to be rem'd.

I am, with esteem, your most aff. B.,
JAMES HARTLEY.

Comm. flour 25s. a 26s. pr. C.
Wheat 8s. a 8s. 6d.
Barr iron £28 pr. tun.
Pipe staves £16 a £18 pr. M., but have been a £25.
Hhd. do. £6. Barrels £4. Headg. £10.
Pine bords £6 a £7.
Seeder bords ditto.
West India rum 4s. 10d. a 5s. Molasses 20d.
Muscov. sugar 50s. a 60s. pr. C. Loaf do. 13 a 15d.
Coff. 13d. a 15d. per lb.
Cocoa £6. Cotton 21 a 2s.
Bills of Exchg. on London 66 a 67½ pr. C.
Pork £5 pr. bbl. Gam. 10d.
Liverpool salt 21d. a 2s.
Lisbon D. 20d., 22d.
Beeswax 20d., 22d.

In your last you menshion of writing to you at Mr. Aspden, but cannot find out his first name nor where, so blotted.

Endorsed—To Matthias Aspden, merchant, London, pr. Captain Smith.

30

James Hartley, Philadelphia, to Matthias Aspden, London.

PHILAD., *August 28th*, 1783.

DEAR BROTHER: Since my last, pr. Cap. Smith, I have before me your favor of 4 June, covering B. Baynton draft on his brothers. Immd. on receiv'g this, I called upon one of them, (the other being out of town,) who seemed much oblig'd to you in letting him have the money, but that he could not accept it untill his brother came home, which would be in a few days, and that he thought the money would be paid; since which they have both been out of town, and fearfull will not return for this opportunity, but you may depend shall endeavor to get the money if possible.

I am also much oblig'd to you for your attenshion in ship'g the sail cloth, which at that time appear'd to be the only article likely to sell to a profit; since which great quantities *has* arriv'd from almost all quarters, and little ship building going on. Nevertheless, am in hopes shall be able to save myself, such is the state of our market; and as to riggen, it is now selling a 45s. a 50s. pr. C.; this is owing to strangers, and the case at present with all other goods. Have no account of the ship as yet, but make no doubt of her arrival, when shall act with much attention upon any matter that shall come under our notice. I am also greatly oblig'd to you for the porter, &c., and shall act agreeable to your desire.

As to what you say respect'g purchasing vessell, which I think was luckey, as this port never was so full of vessells, and produce high; and your opinion respect'g them I think is very just. You observe my letter was silent respect'g restitushion; this is not in my power to say what will be the event; matters concerning yours appear favorable, as I have already inform'd you; the State never attemt'd to sell any part of yours; the plantat'on I was fearfull they would, but have not, neither have they gave themselve any trouble about it, or me; at first the commiss. for Chester county ordered D. Alexander to pay him the rent, but nothing further has been don; the hous was orderd to be let, and the rent given to the colledg. And untill the treaty of comm. is fixt, and the British troops left York, and the minds of the people comes a little more settled, I hardly think any thing will be don on that head.

Mr. Penn is now here, and lives with John, on Schoolkill. I cannot give you any incoredgment respecting returning at present. Yesterday, I spoke to J. Harrison to write you his opinion on that head, also Mr. White, and has assur'd me they will write you. The committee which I menshion'd to you in my last still continues; what will be the consequence, as the assemb. is now met, respecting those matters, I cannot say, but am fearfull little to be expected from a set of Pris.

As there is no vessel here bound to Bristol, have inclos'd you T.

been paid. Your hous was order'd to be let, and the rent given to the colledg here, which thay receive; and untill the treaty of comm. is fixt, and the Brittish troops left N. York, by which means the minds of the people will get more settled, I hardly think any thing will be don on that head. I have also yours of 27 June, covering a form of affidav't, which I shall get accomplish'd, and forward Mr. Cowper pr. first opportunity, which I am greatly oblig'd to you for. I am also favor'd with yours of 4 August, with the state of my account. Your ledger shall be forwar'd pr. first opportunity, agreeable to your desire; and acknowledg your care respecting the tickets.

Mr. G. Fox return'd here a few days ago, with R. Shewell, from Lisbon, after a long passage. He was with me, and inform'd me of the pleasure of your company in London. Many of your old acquaintance here, even among the W'g party, appears as if thay would be glad to see you, particular Benj. Eyrs and others. I have frequently menshion'd to Mr. White and Harrison, to give you their opinion concern'g return. For my part I am at a loss what to say. I cannot conceive but what you might live very peaceable here, but think it would be best to see matters settled here first. Abraham Leaden, upon your estate being taken, I immediately inform'd him that he must apply to the commiss. respecting his bond; that he might depend on never getting the money if the estate was lost. He apply'd to them in Chester county, who gave him for answer, perhaps he might be paid when the estate was sold; and as nothing has been don, he was with me last week for adv. I could not give him any, but request I would menshion it to you, which I promis'd him I would. I have got Mr. Baynton's draft accepted, upon condishions that if it should not be in their power to pay it when due, that it may lay a few weeks longer, as thay expected to receive a sum of money, but was uncertain of the time. This I conceive was better than noting it for protest.

I have in my former menshion'd to you of a great number of vessells here, and that it was impossiable to conceive what they would load with; to your surprize, many has lumber, such as staves, boards, &c. Som has taken in 100 cords of fire wood. Oake is now sell'g here at 28s. and hickery at 40s. pr. cord. We expect, if not by this, the next opportunity, to forward you som bills or cash, and that our house will write you in answer to yours.

Inclos'd you have the state of our market, and believe me, to be with due attenshion, your most sincer and affect. br'r,

JAMES HARTLEY.

Original pr. Cap't All.

Duplicates.

Please to purchase for me the following articles, and ship them on board the first vessell for this place—the cash for which shall be transmitt*ingd* you. Thay are for my partner, whose wife, Mrs. Potts, will kindly thank you for your particular attenshion, as she would be glad

to have them neat and fashionable. And D. P. having som effects in the hands of William Roche, of Nantucket, which money will be in London, and order'd into your hands, which he expects in the ship Cowper is in.

2 pair of elegant plated candlesticks, large.
1 pair fashionable lady's paste buckles, at about 3 guineas.
1 set plated casters.
An elegant damask table cloth, 4½ yards in length.
48 yards best yellow worsted furniture, damask.
A fashionable plated tea urn.
A pair of handsom snuffers and stand of polished steel.

Also for your humb. sv't, J. H.

1 quart, strait tankard, plated, } with lids.
1 pint, ditto, ditto, }
1 tea pot, fashionable.
1 slop bole.
1 sugar dish.
1 cream jug also.
4 salts.

Fashionable,

Which will much oblige your aff. B.,

J. B.

Copy pr. Cap. All.

Endorsed—To Matthias Aspden, merchant, London. Pr. Cap't Truxon.

32

Jos. Harrison, Philadelphia, to Matthias Aspden, London.

PHILAD'A, *Oct'r* 17, 1783.

DEAR SIR:

I wrote you lately p. Capt. All, informing you of our having rec'd the cheese, &c., for which we return you our best thanks. I am very sorry to say that at present I can see nothing that can promise you the tranquility you might wish on your return to this country. The definitive treaty will produce measures that will either forever bar it, or else restore you to the priviledges you once enjoy'd here, your property excepted, which I believe will never be given up, in consequence of a late act of parliament empowering commissioners to investigate the loss of the loyalists for the purpose of indemnification. I will endeavour to ascertain and fix the amo. of your's in such a manner as will entitle you to the benefits of the said act, tho' am surpris'd you never wrote for such valuation. This is done by many similarly circumstanced with regard to confiscation. I have sent this fall for goods to your place, and intend to enter into as extension a line as possible. I

must therefore call upon you for your assistance in promoting it. You had some valuable connections in the West Indies and elsewhere when you resided in Philad'a; you w'd oblige me much by recommending me to those houses to do their business here. I should make it my study to do every credit to your recommendation; and shall at all times flatter myself with your assistance in any way that may promote my interest. I can have a connection on your side the water for the purpose of keeping a vessel in the London trade. Do you think it advisable, and would you interest yourself ¼ in such a concern? Be pleas'd to forward the enclos'd No. 1; the other keep with you till George visits England. My mother and the rest of the family beg to be remembered.

I am, dr. sir, affect'ly yours,
JOS. HARRISON.

Endorsed—Matthias Aspden.

33

James Hartley, Philadelphia, to Matthias Aspden, London.

PHILAD., *October* 18*th*, 1783.

DR. BROTHER:

Herewith you have duplicate of my last, since which I am without any of your favor. I have, agreeable to your desire, deliv'd to my neighbour, Thomas Dickason, who is going passenger with Capt. Truxon, your ledger, who has been so kind as to take charge of it, and put it in his chest. He is one of the hous of Champion & Dickanson, London, where you may enquire. (It is called a book.) Not having any new matter to communicate to you. Mr. White assures me this day he would write to you, being all well. I have taken the pains to take a copy of your ledger, so far as it extends to any matter on this side the water; also entered som other matters in it so far as is p., sincerely wishing it may come safe to hand. You have also the state of our market, and refer you to my last for all other matters. Believe me to be, with great attenshion, your most affect. brother,

JAMES HARTLEY.

34

Memorial of Matthias Aspden to Commissioners of American claims.

To the commissioners appointed by act of parliament to enquire into the losses and services of the American loyalists.

The memorial of Matthias Aspden, of the city of Philadelphia, merchant, sheweth:

That your memorialist is a native of Pennsylvania, and the only son of Matthias Aspden, of Philadelp'a, a considerable merchant, on whose decease your memorialist became seized in fee of a plantation in Newtown township, in the county of Chester, containing one

hundred and sixty acres of land or upwards, with sundry suitable improvements thereon. And also to a lot of ground, situate in Water street, in Philadelphia, extending to and adjoining on the river Delaware, on which was erected a substantial good dwelling-house, wharf, and warehouses, and on which premises your memorialist resided; and to other small estates in the Jerseys, which he disposed of early in the year 1774. And also to a considerable personal estate, to the amount of

That your memorialist, on the breaking out of the troubles in the year 1775, was settled as a merchant in Philadelphia in the most respectable line, and among those of the first credit and capital in the city, his business yielding him upwards of two thousand pounds sterling p. annum.

That your memorialist, attach'd to the Brittish Government, quitted America and came to England in the year 1776, leaving behind him debts, including the plate and furniture of his house, to the amount of , and upwards.

That your memorialist, since he hath been in England, hath lived without any allowance from Government, at an unavoidable and considerable expense, on moneys arising from the sale of different vessels sent to England in the year 1775, in conformity to an act of the sixteenth of his present majesty, "entitled an act to prohibit all trade and intercourse with the colonies of," &c., and the cargoes that those vessels were laden with, in the sale of one of which, in the port of London, he was a sufferer to the amount of several hundred pounds.

That your memorialist hath hereunto annexed a valuation of the house and plantation described in this memorial, which hath been made and affirmed to by men of known character and integrity.

That your memorialist hath been required by name, with others, in a proclamation bearing date the 27 day of July, 1780, [issued by the executive council of the State of Pensylvania, under the authority of an act of the State, giveing them certain powers for the purposes therein mentioned, "entitled an act for the attainder of divers traitors if the render not themselves by a certain day,"] to appear by the first day of Aprill, 1781, to take his legal tryall "for having adhered to, and knowingly and willingly aided and assisted the enemies of this and the United States of America."

That your memorialist, refuseing to obey this proclamation, and also to appear to an act of the State that afterwards was passed, and extended the time in the proclamation to him and one other therein named, for the further term of nine months, hath incurred the pains and penalties set forth therein, to wit, the forfeiture of life and estate; the latter, as far as relates to real property, haveing been already apply'd some time to the public use.

Your memorialist therefore prays that his case may be taken into your consideration, in order that under your report he may be enabled to receive such aid or relief as his losses or services may be found to deserve.

And your memorialist shall, &c.

Remarks on the foregoing memorial.

If he had said £5,000 cur'y instead of upwards of £2,000 sterl. p. an'm was yielding him by his business, he does not doubt he should [have] been justified; of this he supposes Mr. John Close, who uses Batson's Coffee-house, and lives on Tower-hill, and whose son was in his compting-house in the year 1774 and 1775, might speak in general terms; but other data of it can be furnished.

2dly. If he had not been attach'd to this Government, and opposed to the revolution, it is not reasonable to suppose he would either have left America, his native country, and all the nearest friends and conections he had at the early period he did; or, if this had been his determination, that he would have come to England when there were other countries to which he might have gone, and been certain of meeting with a friendly disposition both on the part of the people and government, particularly France, where he could have placed (had this been his motive for leaving America) any property he might have in Europe, or might receive from America, to as much advantage and safety as in England; and this, he adds, that had he been a revolu'nist, or disposed to countenance the same, he certainly should have done. But every proof of his uniform attachment and fidelity to this country can be furnished; if any greater need be required, than his being on that account attainted of high treason, and his life and estate forfeited, and the latter very soon after seized, and part appropriated to the use of the college of Philad'a.

3dly. With respect to the property he has derived his support from in England, he thinks it necessary to observe, that it was no purpose provision, but centered solely from the operation of the prohibitory act, which forfeited all vessells found in American ports after a certain period, or elsewhere, if own'd in that country, which occassion'd much the greater part of his capital from the line of business he was in to centre in this country; and here he might remark his being placed from his situation on very different ground from those whose estates vested solely in the country, who could avail themselves of the proclamation issued by Sir Wm. Howe, in fav. of those who remained peaceably on their estates; or that the saw no certainty of protection, and therefore were not bound to abandon their estates, a plea held justifiable by the ablest writers on the duties of allegiance.

Part of the property he had in England was vested on his first comeing in the employment of a ship in the West Indie trade, merely to serve the master, who had been in his employ in America; and also another young man whom he brought with him at some expense from America, and was also in his employ before the war, and whom he sent out on master's wages in this vessell, untill something better could be done for him, the former mate being retained. During the time these persons were in his employ, the one two, the other three years, Mr. Lancel't Cowper, merchant of Bristol, can testify both as to his motive, and that he did not derive as much advantage from the

same as even interest for his money; and also, if he had not employed them at the time he did, that it was more than probable the either must or would, from the reluctance there was in England both to underwrite and give the comand of vessells to natives of America, have gone back to that country to have got employment there. Some other part of his property was early invested in the funds, and some lay in private hands at four and five per cent., but the whole became invested in the funds some time before the peace, a period far from flattering, from a doubt in the minds of many that a continuance of the war would give them an irrecoverable stroke, and which there is too much reason to suppose would have been the case had it not been for the success of Lord Rodney. Now the mite might been small, it must be allowed it was doing the nation some service at an interesting period, and justly strengthened his claim for a consideration on account of his other losses.

35.

Matthias Aspden to ———.

DEAR SIR: I wrote a few lines from Philadelphia per the packet, acquainting you with my arrival, the which I expect you must look for, and tho' have said something more than I did on the subject of my situation, and the stay I was likely to make, had I been more fully acquainted with it when I wrote. But it was not until a few days after, from a closer conversation with some friends, I was led to doubt I had been deceived in the *the* construction I had put upon the treaty; and took a friend with me and *and* went to a lawyer, the most likely to be candid, and also inform [him] how the treaty was understood, and gave a state of my case in writing, desiring to know whether I was protected under [the] fifth or sixth article of same. When to my astonishment he told me that the practice of the court, in conformity to the opinion of the judges, considered no person as protected by those articles where judgment had gone again them, (or, in other words, that were in my situation) and to be more plain with me, he told me that he knew the judges had it impress on their mind as a duty to bring the question to an open issue, and that directions were given to apprehend a person in Chester county, or was understood to be there, who stood directly in the predicament I did. Or, if he was not taken, perhaps might be intended as an intimation that I might be considered as a suitable person to make this matter notorious to the world. Possessed of this information, and also some belief from what I had heard that a person had suffered in Chester county since the peace, where the treaty ought to have protected according to the [opinion] I had of it, and under which I left England. And that another person, last spring, again whom judgment had gone before the treaty was signed, had been taken up and ordered by the court, which was then setting, for execution. His friends immediately applied to the Governor for a reprieve, untill the sense of the house of assembly could be known. This was done, and without considering the man as any way protected by the treaty,

they confirmed the order of the court, and directed that he should be executed. You may suppose I would not feel very easy in this situation; on the contrary, it was distressing, and led me imediately to go to Burlington, where I might avail myself of an act passed in Jersey, giving liberty to all persons to come and settle who had been *no* guilty of no act of wanton cruelty. Here again I took the advice of an able lawyer, who told me I had nothing to apprehend from the State of Jersey, unless the Governor of Pennsylvania should demand me; in this case he believed, from the terms of the federal treaty, that the State could or would protect me. Here I made a few days stay, but still finding myself under no real security I went to New York, determining to embark for France in the l'Orient packet, which I should have done, but the Atlantic ship, commanded by Captain White, who brought me to Europe when I left America before, being hauled off into the stream to sail the next morning for London, I concluded from this circumstance, and the tye of language, to take my passage in her, and am now where the date of my letter tells you, or in the words of Mr. Hartley, to his constituents at Hull, speaking of the loyalists, returned again to the oppressing power for shelter. My friends in Philadelphia in their letters to me meant well; but did not enlarge so much as the ought to have done, which lead me to consider myself as absolutely protected for a year by the treaty, and under this conviction I thought it in some degree a duty incumbent on me to go to America, to use my endeavors to get my property restored to me, and a few weeks before I sailed I wrote to the comissioners I was going personaly on this errand, and should take the earliest opportunity of letting them know the result, which, with respect to property, I pretty well could guess before I left England, and believe I so expressed myself to you, and indeed might have known from some of my countrymen the real ground on which things stood, and been saved this perilous and anxious jaunt; but wether it is that I have a little independancy, and the have not, that has occasioned their showing this distance towards me; or what else it may be, I know not, but most certainly I found no friends among any them, which would not but heighten the very uncomfortable life I had lead England for seven or eight years, and at last to find myself ensnared to death from in the face of a public treaty was giving the full completion to a man's sufferings—and how my lot will be cast now I know not, or which I shall turn myself—but happy should I be if I could form some little attachment and home, where I could be useful member of the community, and at the same time enjoy life with some little degree of satisfaction in the remnant I have left.

36.

Mem. of account of Joseph Shewell.

Joseph Shewell for rent, &c., of Matthias Aspden's house in Water st. From May 1st, 1776, to May 1st, 1779, is

3 years, a £40 £120 0 0

Interest from May 1st, 1779, to May 1st, 1784, is 5 years, at £6 pr ct	37	0 0	
			£157 0 0
From May 1st, 1779, to Ap'l 1st, 1781, is 1 year 11 m'ths, a £80	£153	6 8	
Interest from Ap'l 1, to Ap'l 1, 1784, is 3 years, a £6 pr ct.	27	12 0	
			£180 18 8
From April 1, 1781, to Jan'y 1, 1782, is 9 months, at a £150 pr an'm	£112	10 0	
Interest Jan'y 1st, 1782, to Ap'l 1, 1784 is 2 years ¼, a £6 pr ct.	15	3 9	
			£127 13 9
Due Ap'l 1, 1784.			£465 12 5

The above is a copy of the account rendered to Joseph Shewell by James Hartley, half-brother and attorney to Matthias Aspden, the writer of this, who let the house to said Shewell in April, 1776. When I, the owner, Matthias Aspden, was embarked on board the packet at New York for Falmouth, from which copy furnish'd by said Hartley to me, Matthias Aspden, soon after my return to America from England, in Sept'r, 1792, this copy is taken.

37.

James Hartley, Philad., to Matthias Aspden.

PHILAD., *April* 21, 1784.

DEAR BROTHER: I have before me your favour of 30th Sep., also 8th Octo. handed me by Mr. Stocker, who did not arrive here until the latter end of March, being blone of and oblig'd to run for St. Kitts; contents of which I duly note. Your care and attention respecting us in the trading line I am much oblig'd to you for; and as to your thoughts of fixing yourself for trade, was I in your situation, as you must have a sufficient incom to live upon, I should chuse to see matters settled before I was determin'd. I cannot help observing your inclination is for this country, which I have frequently said to Mr. White, and have always been of opinion, that was you here, and by proper application, your estate would have been return'd to you; but that it was not his opinion, alledging that it was making an example for others; not that they have any matter against you, which I believe now he may be right. But for me to advise on this head for a line of conduct, I cannot; but as my opinion, you might live here peacable, which I should be glad to see. I have also yours of 17and 24 Oct'r, pr. Robeson, contents of which I duly note. Agreeable to what I formerly wrote you, that the evil of the day will be don away in time, and by degrees, for we have now here many of the proscribed persons, even

som who have been in an active line, and very little talk of them; this has not been your case, which makes me think you might live very peacable in this country, even suppose you pay no attention to your estate here. I have receiv'd part of Baynton's draft, and expect shortly to get the rest; this I did conceive was your int'rest, and as it comes into my hands, you will have int'rest for it. As to the canvis, I was well assured that it was purchas'd upon good terms by you, for som people had the same charg'd 2 a 3d. pr. yard higher; but an overstock made the glut; the worsted damask our D. P. has receiv'd, and is pleasing, altho' the ship did not get up to town untill the middle of March; we have had a very remarkable severe winter; our river fasten'd about the first of January, and never broke untill the 12 of March, having heavy snows; fire-wood from 10 to 16 dollars pr. cord.

I am also favour'd with yours of 3 Dec'r, and am glad to find the book is com safe to hand; I observe of your writing, A. Leaden, as I have already menshion'd to you that, as he lived in Chester county, I inform'd him if he expected to get his money he must apply to the commiss. for forfited estates for his pay, which he did, but as thay never attempted to sell your place, he never push'd the matter; but if you are to lose your estate by our laws, the same law, upon proper application, is oblig'd to discharge those debts, but our rulers does those matters as they please; but to give him much incoridgment of paying him, and as thay keep your estate, I think it hard upon you. It has always appeared to me that it has only been the voice of a few leaders to have touched your estate. I menshion'd the matter long ago to J. Shewell, who have promis'd me he would settle it. (Although we are on good terms to ourselves, am convinc'd he is a r. g.) as I have menshion'd to you *to you* of his declaration to our council, that he took it by agreement with you, to live in it rent free until you return'd to America. This is an argiment he has attempted to make use off with me, but it would not do. Altho' I made agreement when he first took it at £40 pr. year, on your abating him £10, if you thought it was too high for a year; and if you did not return, and rents rose, to be also rais'd; this he then agreed to, and as rents rose, I gave him notice, from time to time, to pay as others did, but could get no money, neither could get any positive answer since I first let it, and as you was liveing in England, was oblig'd to be very peacable; and when it was taken, 9 months before the time was out, gave him proper notice to pay £150 pr. ann. for whatever time he should live in it, he paying all taxes and repairs; all his answer was he would move out, but never did, and as you was not here when the house was let him, therefore there could be no agreement with you respecting the terms, which, when you write him, you will menshion to him, and that you expect he will settle it agreeable to my agreement; and that whatever sum is due, that it was worth its int'rest, which is justly due. But this you must observe, that when a man's estate is forfited, all debts due to him is also seasable, if the authority can find it out; but, nevertheless, am in hopes of getting it, as well as som others; as to J. Wharton, I am

at a loss, but do not intend to let it rest, and as it is a bond shall do my best, but it must be in a peacable manner, as old debts *is* not recoverable here even by law, if it was a debt due me. T. Smith has promis'd to pay, and all other ballances you have in this country I shall do the best I can to recover, but all must be by perswasive means, as all those debts was forfited when your rale estate was; and by the same, or by law, some restrictions on them that owes, if known, for not giving the State information of them.

I am now to look to yours, 29 Dece'r, pr. Truxon, contents of which I sincerely observe; your case, I must confess, appears hard, but with many much more so, owing to our cursed paper contin'l; and as to putting money out without you was here, it may attend with difficulty; our bank has brought to those people who have put their money in it from 10 a 12 to 14 pr. cent. pr. ann., and a great many of our first carrectors have put money in that have declin'd trade, Samuel Powell, Samuel Howell, Robert Morriss, and many others. But as we have a great talk of making paper money, and that to be a leagal tender, may make a very great risque to have money out here.

But *was* you here to see the twisting and turning there is with the cash in hand you would be surpriz'd, for there is little confidence to be placed in many here, (even in Government.) Your old friend Wm. M'Murtre, he has som of his money in the bank; and by twisting, som one way and som another, he supports his family, and out of trade. But if paper money should becom a currency here, I think the bank must fall, as it remains a doubt to me but that it will depreshiate, as the people at large have been bitt so in cont'l, places so little confidence in the makers. Therefore if a man was to put money out here, and that should be the case, he must receive it in such money as was going; if it was not for this, money might be put out here, which makes it dangerous. Therefore can give you no incoridgment on this head. I am much oblige to you for your intelligence respecting iron, &c., in Gottenburge. A few days ago receiv'd your favour of Nove'r 5; therefore, agreeable to your desire, enclosed you have copy of father's will; also you have my affidavit that I have the deeds of your place, and the hous in town, but must say you are mistaken to expect restitution in our courts; (for if you should not recover your loss in England,) your mode must be, when you return to America, to make application to our assemble, in whose power it lays. These matters, time past, was of great concern to me, as I was liable to be call'd upon by the powers here to give information of your affairs in America, during which was or must be clear to affirm had nothing, but they never did.

I am now to observe yours 27 January, which I duly note what you say respecting steel, and of your shiping part when to be had. Our intention was not that you should be in advance for us, our D. P. expected a sum of money to be paid into your hands nearly for said purpose, and am very much surpriz'd that it has not been done. As to the bills you menshion, we have strange works of this kind of drawing by many, and, as they are strangers, time only must

determine; this man you menshion keeps a small store of dry goods here. I should be glad to hear of the well-doing of these young men; but you know the gentleman of pleasure and the man of business will not sute well together. I know of no business J. H. is in here to any account, and am sensiable of your feelings. Your houshold furniture is sold, (excepting your plate, which is safe packed in bran;) but was oblig'd to dispose of them in such a private manner, and for hard cash, that I have som of the money out yet, but in good hands.

There is not only this, but all other matters in my hands you shall have the accounts as quick as possiable; and from the candid intenshion to serve, am well assur'd all will be to your satisfaction; which time past appear'd to me must be privatly; and with full expectation of seeing you here, (or should have don it before,) this I must leave. I am much pleas'd at your escape in Bewick's hous; they forward me a power of att. against Stocker & Wharton; in their acc't they make a ballance due them [of] £225 18 8 sterg.; [a] great part of which is interest. I wrote them Stocker was in England; since which I know of nothing ben don; this for your government, if a small sum should be due you. I am much oblig'd to you for your kindness respecting Mr. Woods. At present dry goods appears very gloomy; for the quantity that is here and coming, and the scarcity of money, also the high price of our produce here, cannot conceive how they will be paid for; there is also several vessells expected from Lisbon, one arriv'd, from whence they bring quantities of East Ind. goods, which comes much lower, I am told, than what they are charg'd at from London; therefore cannot think it prudent at present.

I am also greatly oblig'd to you for the plated goods, which we have receiv'd in good order, (excepting the glass of the mustard pot, which was broke,) the damask, the buckles; also, those are much to Mrs. Potts' and all our satisfaction. I have receiv'd my acc't from Barclay, wherein there is a ballance due me of £40 7 0, dated 22d Octob'r, 1783, which I shall desire them to pay you when convenient; which they have assur'd me [they] will pay to my order. I shall herewith inclose you the state of our market. Barr iron of a good quality would do well from those places you menshion, as I think it cannot be made in this country under £28 a £30 pr. tun, labour being very high here. All our relation in Jersey at present [are] is well. Benjamin, oldest daughter [of] Massey, this winter, by appearance, has don well for herself; she is married to [a] son of John Brick, dec'd; the young man has a good farm near Glouster; this has been som expense to me; his name is John; all the rest [are] is well, and thus far have been orderly; Beckey and family well; her two oldest daughters [are] is expected to marry shortly; John has made a good increase of his forten; saw-mills [have] has been good for this som years past, and continues, having several at work. I deliver'd her your letter, and shee will write you. I have had my tryals in cont'l money; but I think [I] have made it up; and our business at present is done without being involv'd, and som

money made by it; [I] shall continue and remain with due attenshion to your affairs; and am, with great respect, in which my wife joyn.

Your most sincere and affec' broth.,

JAMES HARTLEY.

To MATTH. ASPDEN.

37

Matthias Aspden, to ——— ———.

I take up my pen to acquaint you that I am just return'd again to England from my voyage to America; an undertaking I was betray'd into from the terms of the treaty, and some other circumstances not at this time necessary to mention. The day after I arrived in Philad'a, supposing myself undoubtedly protected at least for a year under the treaty, I went with a friend of character to wait on the Governor; first, as a matter of propriety; and, 2dly, to acquaint him with the views and ground on which I had come to America; this visit being over without my being undeceived with respect to my situation, I remained in town, satisfied with [my] me being in safety untill a day after I wrote you pr. the packet; when some things came under my notice which occasion'd me to doubt I was not in that security I supposed myself, and induced me to take the opinion of council who knew and was likely to speak the sense of the Government on the interesting part of the treaty to me; who told me that opinion on the case was imaterial, as the practice of the courts had fully decided, on this head, that no persons were protected under the treaty where judgment had gone again them, or, in other words, that were in my situation; and that he further knew the judges had impress'd on their minds, as their duty, to bring this question on the treaty more avowedly to an issue. Astonished and distress'd at this informat., I very soon after went to Burlington, where I supposed I should stand on safe ground under an [act] of the State of Jersey, which gave liberty to all citizens of America and others, who had not been guilty of any act of wanton cruelty to settle at this place, and any body. Here again I took the opinion of council, who inform'd me from the State of Jersey I had nothing to apprehend, unless the Governor of Pensyl. sh'd demand me; in this case, from the articles of union, he believes the State neither could nor [would] protect me. Still, in no security for my life, but the forbearance of Govern't to carry the laws into execution, my situation was uneasy to me, and determined me to go to N. York if not prevented, and return to Europe in the l'Orient packet, to sail in four or five days; which I sh'd have done, but a vessell haveing hauld off in the stream the day I arrived at New York, ready to sail the next day for this port, I concluded, from this circumstance and the tye of language, to return in her; accordingly, sent my things away that evening, and the next morning went on board myself, when the vessell soon after proceeding to sea, reliev'd my mind from the concern it had experienced for some days; I nevertheless could not help at times casting my eyes back, and

feel it a painfull circumstance to be thus forced from my native country, friends of early acquaintance, and a channel of business with which I was well acquainted; and, left at liberty to settle in the country, I could soon have got into again, and to as much advantage I believe as ever. To return again to what Mr. Hartley tells, the loyalty is oppressing power, shelter a country—where I could not help telling the commissioners, in consequence of some questions the ask'd me, I had few or no friends; a country where the remnant I have will not go much more than half as far as the same would go in America; and where I know of [no] line business in which I can engage with either proffit to myself or use to the community; does this accord with words of the motto, ubi panis, ibi patria? In America they tell me there is no such person [as] myself, but that I am dead in law to all intents and purposes. The duty I owe myself will lead me, in a few days, to take the opinion of some able council with respect to the ground I stand upon here, according to the construction of the prohibitory act, the treaty of peace, and the act which confirm'd the same; also, what may be the practice of the court, if any one has been decided upon, with respect to persons in my situation.

38.

Rev'd William White, Philadelphia, to Matthias Aspden, London.

Dear sir: By this opp'y y'r papers will be returned duly executed. Neither you nor Mr. Carr make any mention of instruments for conveyance of right of dower in Ludgate street House, which leads me to hope that matter is got over in some other way. I shall draw on Mr. Carr to ye amount of £600, but guarding against ye consequences of being wrong in ye measure. In looking over Mr. C.'s acc't, I find no charge as yet made for his own trouble; this is a matter of delicacy which I must take ye liberty of requesting you to act in. Could you not sound Mr. C. on ye subject? I presume there are legal commissions on such occasions, and these he ought to charge; but should he decline it, I wish you, at ye closing of our acc'ts, to lay out ye amount in plate, or any way you sh'd judge most acceptable to him, and request his acceptance in my name, together with my best thanks. Permit to give you farther trouble; ye gowns are arrived and perfectly to my mind; but I neglected ordering cassocks, under an expectation of having them as well made here; but, being disappointed, I must beg you to get me two made of ye same stuff as ye two gowns. I beg you also to procure for me five mourning rings for my father; ye size of ye fingers I will send you, and as for ye stile of execution you must be ye judge of it; besides these, I wish for two plain silver drinking vessels, holding about a half a pint each, of a fashionable shape, and 1½ doz. of tea spoons. No charge appears in Mr. Carr's acc't of cash p'd for my gowns, so that perhaps you have advanced it. I shall on this acc't, and for ye purchase of ye above articles, enclose an order on him for £50, or as much thereof as you shall call for, ye said order to be paid

in preference to ye other bills. Your very friendly attention to every thing I have requested of you induces me to hope you will take this also in good part.

I find from your letters, and from G. H., (your kind attention to whom we can never be sufficiently grateful for,) that you wish to return, if it can be done with full security. I do not yet know what advice to give you on this subject; but I can give my opinion that you would not be molested, and information that at least one in your predicament (Mr. Wm. Austin) has appeared among us; this, however, I must press on you, that whenever you resolve on ye step, you repair immediately to my house; a proposal which I make, not only on a score of regard and hospitality, but on that of prudence also.

I intend setting off in a day or two for N. York, to an ecc'l meeting, called for ye purpose of revising ye corp'n for relief of widows and children of clerg'n, and for consulting on ye more general concerns of ye ch'ch. I find your idea on this subject is, that we sh'd give up Ep'y, and join with other denominations in forming an establish't. As to ye former, a great proportion of our communion will never depart from it; and all parties agree in keeping Church and State entirely separate.

With Mrs. White's love and mine, I am your aff'te friend,

W. WHITE.

Philad'a, Oct. 1, 1784.

Mr. ASPDEN.

P. S. New York, Oct. 6. Since writing ye above I have opened ye pictures in good order. I intended answering from this place your letter by Cap'n Willet; but arrived here last evening, and ye immediate sailing of ye packet, together with to-day's business, will prevent. I came from P. in such haste that I neglected bringing ye size of ye fingers of ye rings, so must leave that till ye first opp'y after my return.

Endorsed—Mr. Matthias Aspden, Grove coffee house, Bath.

39.

Matthias Aspden, Bath, to Messrs. Robert & Samuel Hibbert.

BATH, *March* 8, 1785.

Messrs. ROBERT & SAMUEL HIBBERT.

GENTLEMEN: I recei'd some little time agoe a letter from my half-brother, Mr. James Hartley, of Philad'a, wherein he desires me to pay you fifeteen pounds, the ballance of his account. Agreeably thereto I here enclose a bill for that sum, dated the 26th ult., payable in two months after date; and should be glad you would enclose me in your letter acknowledgeing your receipt same, a receipt to send to my brother in Philad'a specifying your haveing receiv'd that sum of him thro' me.

Some bills recei'd, Philada., which come due the latter end of Aprill, has occasion'd me to give you this draft at the long date I have, or

otherwise I would not have done it. Mr. James Tauckit or Mr. Nathaniel Hyde can either of them inform you of the goodness of this draft.

I am, gent'n, &c.,

M. A.

Direct to me Bath. An indifferent state of health has obliged me to make this my chief residence.

40.

Joseph Harrison, Philadelphia, to Matthias Aspden, London.

PHILAD'A, *May* 12, 1785.

DEAR SIR: I inclose you 2d exch'e on Paris for 5,000 liv., which you will please negotiate. I forwarded you the 1st pr. Cap'n Budden, who sail'd a week since. I took the liberty to draw on you a 60 days, fav'r John Drinker & Co., for £200 stg., which I flatter myself will not become due before you are in cash for the inclos'd, and that you will not hesitate to accept my dft., assuring yourself that due honer will be paid to the dft. on Paris. With regard to my other dfts. on you on ac't of those on Carr, I had no suspicion that they could be attended with any possible difficulty. I derived no benefit from the transaction, and am extremely sorry it gave you so much trouble. I can only assure you that it would give me great pleasure to make any return. The dft. on you will be lodged at Sir Charles Asgill, baronet, Nightingale & Co., bankers. It was an unexpected necessity that induced me to give you this trouble. The sum was owing to me by the person who draws on Paris; and as I could not easily negotiate the dft. here, I took the liberty to manage it in the manner above mentioned.

In your last letters you make mention of an intention to come here; I sincerely wish it, tho' can give you no encouragement in the way of business at present. There is scarcely any money in circulation, and the country overstocked with goods, and in the islands our trade you know is greatly fettered. I shall write you again pr. this opp'y on a subject which am this moment informed is necessary.

I am, affec'ly, yours,

JOS. HARRISON.

41.

Opinion of J. Kinsey, esq., Burlington.

Mr. Aspden went to stay in England in September, 1776, being an inhabitant of Pennsylvania untill that time.

In his absence in England, an act of Pennsylvania was passed for absentees to come in by such time, on failure of which such absentees are attainted, and their estates confiscated.

Mr. Aspden did not return into the United States till July, 1785;

and is desirous of knowing whether his person can be the object of punishment in Jersey or Pennsylvania.

It appears clear to me, that the 6th article of the definitive treaty of the 3d September, 1783, effectually secures the person of Mr. Aspden from any kind of punishment any where, under the attainder in Pennsylvania, which expressly mentions that no person shall, on that account, that is, "for or by reason of the part which he or they may have taken in the present war," suffer any further loss or damage, either in his person, liberty, or property.

Under this article I should think his stay in America may be just as long as he should incline. And if he has neither taken up arms, nor been guilty of cruelty to the inhabitants of the United States during the war, I should apprehend he need not be under any fear of any kind of molestation from any body whatever.

J. KINSEY.

BURLINGTON, *August* 2, 1785.

I do not think that he comes under the description of those who have permission to come and stay a year. The 5th article stipulates for a recommendation of Congress to get the estates restored, of British subjects, and of persons resident in places in possession of the King's troops who have not born arms—and thing was liberty to persons of any other description to come and stay for a year unmolested, which carries a strong implication of the intention of the treaty, that the two first might stay as long as they pleased.

42.

Matthias Aspden, London, to —— ——.

LONDON, *October*, 1785.

GENTLEMEN: The insecurity I found myself under in Pennsylvania, further than the mere forbearance of the Government from the treaty not protected me in any shape, lead to me make but a very short stay there after this was known, and to take an early opportunity of returning again to this country, in which I have now been arrived about three weeks; and where I think it's probable I shall now remain, as my property in that country it's likely will never be restored, should my friends tho' endeavors, be able to get the act reversed as far as relates to my person under which the have attainted me. This disappointment, as well as the doubtful ground I stood in America, felt sensibly by me as you may suppose. The farce of the treaty deceived me, joined to letters from, received from America, which were well intended, but wrote with ———.

43.

Matthias Aspden, Bath, to —— ——.

BATH, *November*, 1785.

SIR: Thinking you may have received some information on the

matter I mentioned to you in *to* town, and desired your kind services in, or probably may in a few days, and not know where I am to acquaint me with same, I take up my pen to inform you, being at this place for a short time, where I should be happy to receive any lights you may give on the business in question.

A state of suspense, under any circumstances, is a painfull one, that I am at present in from what may be the complexion or purport of the report on my case at the treasury, I feel much so, as it may go [to] exclude me a compensation, and of course to cause I should take every means in my power—explained and removed—which I feel very from the suspense I am in as to what may be the purport of the report. Should it go to exclude me compensation I shall think it unjust, and spare no pains nor lose time in endeavoring to remove such objections as may have occasioned it; on the contrary, should the same intitle me to compensation, I should consider it as no more than right to make some application for what to the interest may be equivalent to, until such times as I am paid the principal. When I look round and hear of the provisions that *has* been made for persons from remote and obscure parts of America, fully equal to their former receipts, and know that I have made as great a sacrifices as most, and am without an incume sufficient to enable me to live in the scale I did before the war, and should do again had the evil of the day been removed, I would go again to my former residence, the metropolis of America, on the remnant I have, and the means I know of there of employing it, is a situation at least depressing.

44.

Matthias Aspden, Bath, to ——— ———.

BATH, *Novem'r*, 1785.

DR. SR.:

You mentioned to me when at Bristol you might probably be able to furnish me with some information with respect to the purport on my case at the treasury, if I would write you some particulars relating to the matter to go upon. Accordingly I state you the following particulars, from which you will not only understand how is circumstanced, but be sensible how anx's I must feel from the dark I am left in, as well as prevented by the same from deciding on any line of conduct untill the ground I stand upon.

The commissioners, when on my examination on oath, ask'd me if I intended to return to America. I told them I did once to reside there if I could. That this was a country in which I had few no friends or near relations, and to give up them, as well as my native country, where was my trade, were too great sacrifice on a stinted income, for the local advantage of climate and higher improvement. About 1 month before I set out to embark for America, I wrote the commissioners and acquainted them with my intention, also of the ground and views with which I went; first, the reversal of my attainder as my chief

hope, greatest importance; and, secondly, the restoration of my practicability. On my return I wrote them of, and also of the cause, as the desired to know as my name was not down in the list for compensation, or as he supposed reported, wether the same failed in any want of proof of loyalty, confiscation of property, or value of the same; and rec. in answer as follows: That the commissioners had reported in Mr. Aspden's case to the lords of the treasury, but cannot communicate the particulars of their determination to the parties: no further proof is required of Mr. Aspden. As this answer tells me nothing more that *that* the commissioners had made up their mind in my case, and not whether the had reported my case, or entitled or excluded compensation, I am still, on this head, in as much suspence as ever. ———.

45.

S. Douglas, esq., London, to Matthias Aspden, Bath.

LINCOLN'S INN, 20 *Nov.*, 1785.

SIR: I am very sorry I missed you so often, and especially once, when it seems we passed without knowing one another. I should have done myself the pleasure to answer your letter sooner, but it was not till yesterday that I had an opportunity of conversing with Mr. Coke about your claim. I am very sorry indeed to inform you, that, according to his recollection, the claim is totally disallowed, and that it is contrary to the rules laid down by the commissioners to reconsider or re-hear the case. He says he thinks their decision on your case arose from its appearing to them, probably by too much candour on your part, that your property might be recovered, except as to rent or interest accruing during the war, for which he says they have in no case made any allowance.

I have written my answer to the case and queries you laid before me, and shall send them to Messrs. Hankey, to be forwarded to you. The general result is, that upon the facts stated by you I consider you as entitled to every privilege of a natural born subject of this country, as well commercial, as those which relate to the acquisition of real property.

I have the honòr to be, sir,
Your most obed't humble servant,
SYLV'R DOUGLAS.

Endorsed—To Matthias Aspden, esq., Grove coffee house, Bath.

46.

S. Douglas, esq., to Matthias Aspden, Bath.

30*th Nov.*, 1785.

SIR: I received your answer to my letter some days ago, and cannot wonder that the event of your application to the commissioners should give you a great deal of vexation. After what Mr. Coke told me, I cannot

entertain any very sanguine expectations from an application to have your case re-considered. But a memorial presented with that view can do no harm, and it will give you an opportunity of laying before them the circumstances of your voyage to America, and your unfavourable reception there, with which they cannot otherwise be officially acquainted. I certainly would advise you to take that step, and agree with you that it will be most proper to address yourself (at least in the first instance) to the commissioners.

I am, sir, your most obed't humble serv't,

SYLV'R DOUGLAS.

Endorsed—To Matthias Aspden, esq.,
Grove coffee house, Bath.

47.

Matthias Aspden to S. Douglas with queries.

Qur'es. On what ground does the act which pass'd the 16th of his present majesty, and declares a rebellion to exist in America, (nameing the colonies,) confiscates indiscriminately the vessells belonging to the inhabitants of those colonies, if not in England, within a time limitted, place the people of the same in law?

2dly. Hath the treaty of peace a reference to the ground on which the act above placed the inhabitants of the colonies?

3dly. According to the treaty, does the loyalist who hath come in, stand on new ground thereby, or the same he did before he came in; or, in other words, can he, according to the practice of the courts of Westminster Hall, hold and inherit property, (lands,) or his *his* condition blended with those of the inhabitants of the several States of America at this time?

Sir: Your digesting the above querys in yr. mind, and the public acts the may have a relation to, and favouring me with your opinion on the same, will much oblige, sr., y'r h'ble serv't,

MATTHIAS ASPDEN.

Endorsed—Mr. Douglass, Lincoln's Inn.

48.

Opinion of Sylvester Douglas, esq.

I have attentively considered the case laid before me by Mr. Aspden, and the several questions he proposed to me, and my opinion on those questions is as follows:

1. I consider the effect and operation of the statute of 16 Geo. 2, c. 5, as entirely at an end since the treaty of peace; but while it existed, it only affected vessels and cargoes found in the situation thereby prohibited, but did not alter the legal rights or political relation of the natives of America to this country, which, after that act, continued as

before, to depend on the general laws of allegiance and treason, as applied to the particular facts of each individual case.

2. The answer to the second query is involved in the foregoing.

3. I have no doubt that every American, who did not concur in the rebellion, and who has not taken any oath of allegiance to any of the new States in that country, is entitled to every privilege as a citizen of this country, in as unlimited an extent as if he had been born and resided all his life in England. Of course he may purchase or inherit lands or any other sort of real property, and also carry on trade in the same manner as a native of England. All Americans possessed those privileges till the war, and nothing that has passed, or is contained either in the treaty of peace, or any of the statutes relative to this subject, has deprived those of the description I have mentioned of such privileges.

Even an American who has in fact committed acts of treason cannot be refused those rights, till an actual trial and conviction.

SYLV'R DOUGLAS.

Lincoln's Inn, 30th Nov., 1785.

49.

Jos. Harrison, Philadelphia, to Matthias Aspden, London.

PHILAD'A, *Decem'r* 7, 1785.

DEAR SIR: Having the fullest confidence in your taking up my d'ft fav'r of Messrs. John Drinker & Co., I a few weeks since made provision to replace it by a remittance to France, since which the bill is returned, and I have taken the liberty to renew it, assuring you of my determination to replace it by a good bill pr. the Jan'y packet, at 30 or 40 days. This bill I expected to have given to Messrs. D. & Co., but the gentleman who was to let me have it could not do it in time, as it was wanted to be remitted immediately. As there may be some delay in your being in cash for my remittance to France, which was at a long sight, I will not trust to that, but shall remit you as above. You may therefore safely accept my d'ft. I am sorry for this trouble. Had you rec'd the d'ft on France I forwarded you, not expecting your coming here, I sh'd not have given you this additional trouble. I wanted the money, and an English bill was preferred to a French one. I have wrote you lately with respect to the attainder. The council have reversed it. I am, in haste,

Affec'y yours,

JOS. HARRISON.

Endorsed—Mr. Matthias Aspden, at Messrs. Thomas Hankey & Co., Bankers, London. Pr. Edward, Capt. Coupar.

50.

James Hartley, Philadelphia, to Matthias Aspden, London.

PHILAD., *Decemb.* 16, 1775.

DEAR BROTHER: Since my last pr. Cap. Willet, I am favour'd

with yours a few days ago, of 2nd Oct'r, and am glad to hear of your safe arrival, contents of which I duly note. I find you are not determin'd on any plan of persuit, and that you would be glad to have the money remitted you in my hands. When I transmitted you the amounts, I assur'd myself accountable for the money, agreeable thereto, altho' great part of the money was still out; neither have I got it collected, but since you left us have met with several disappointments in trade, and som losses, (and I believe our J. Harr. with much greater, what concerns he had in the India ships may be said near total.) We having latly purchas'd considerable quantities of imported iron, makes it not convenient to take it out of trade; but having several sums out, as well great part of yours, which I shall collect, and that you may depend on having it all remitted you between this and spring, which will sute me very well; and that I shall use every means in my power to get every other matter of yours settled, agreeable to your desire. I have not been easey respecting I. Shewell, neither have I got it settled, but have promises from the exc. that it shall be. Cap. Biddle haveing latly wrote you, make no doubt he has been particular, to which I refer you; and that a pertishion has been deliv'd in respecting you, and will have due attenshion paid theretoo.

I hope L. Cowper will be able to obtain T. Franks' dividend due me, which you will please receive, in which I shall be much oblig'd to you for your care; and that my intenshion have always been to serve you, which perhaps I may have er'd in, which we are all liable too; but that it always was my desire to do for you as for myself; and do most sincerely wish for your peace of mind, health, and happiness, let your place of abode be where it may. Hoping this may find you in perfect state of health, as it leaves me and mine, who desires to be rememb'd to you, and am, dear broth., most affect. yours,

JAMES HARTLEY.

N. B. As to trade, instead of growing better, I think it's worse. Our money growing scarce, and all kinds of country produce high. Wheat 8s. a 8s. 6d. per bushell. Indian corn 4s. 8d. a 5s. pr. bushell. Flaxseed has been sold from 10s. a 12s., and now 14s. 6d. pr. bushell. No trade to the eastward, nor scarsely any where else in our bottoms. Our assemble still sitting. Much disputing about acts for trade, but as yet nothing don.

Endorsed.—To Matthias Aspden. To the [care] of Thomas Hankey & Co., Bankers, London. Pr. Cap. Hathorn.

51.

Jos. Harrison, Philadelphia, to Matthias Aspden, London.

PHILAD'A, *Dec'r* 19, 1785.

DEAR SIR: I wrote you a few days ago, informing you of my

having drawn on you fav'r Drinker & Co. for £240 st'g. Being confident that my former d'ft would have been taken up on your arrival, I had provided the means to reimburse you by a remittance to France at 90 days. But to prevent any disappointment to you, you may rely on my remitting to you a 30 or 40 day bill pr. the Jan'y packet. I flatter myself you will not hesitate to accept it on this assurance, as you will be in cash before it will be payable. I have wrote you repeatedly on the business of the attainder, which letters you must have rec'd. Pr. the packet I expect to forward you the act of council reversing it, which I hope will induce you to visit us again. Mr. Adrian Renaudet, brother to the doctor, was buried yesterday.

In haste, affect'y yours,

JOS. HARRISON.

Endorsed—Mr. Matthias Aspden, at Messrs. Tho's Hankey & Co., Bankers, London. Pr. the Birmingham, via Bristol.

52.

James Hartley, Philadelphia, to Matthias Aspden, London.

Dece'r 24, 1785.

D. BR: Since the above,* I am favor'd with yours 2 Nov., contents of which I duly note. Wherein I find you propose going to Bath on acc. of your health, where I hope you will enjoy a good state.

The shipment from your side this faul has been small; and I think cannot be much greater next spring, for I cannot think the people in this country have that spirit of discharging their debts as formerly, even if it was in their power; and trade very dull here; many vessells, and all kinds of produce high, which you will observe by the inclosed price cur't. Not having any new matter to communicate, but remain with much esteem,

Your most aff. bro'r,

J. HARTLEY.

N. B. I have forwarded to L. Cowper, pr. Cap. Hathorn, 8 newspapers, (and full price current,) containing the debates of our hous of assemble, which I request him to forward you as opportunity may offer, for your amusment. J. H.

53.

Case for Mr. Ingersoll's opinion.

The opinion of Mr. Ingersoll is desired on the following case, agreeable to the letter and meaning of the late treaty of peace between Great Brittain and United States of America, and such acts of State of Pennsylvania as may bear relation to the same.

*See letter December 16, 1785.

A. B., merchant, formerly an inhabitant of Philad., which city he left ab't the middle of Septm., 1776, and went in a small American vessell to Corrunna, in Spain, and from thence soon after to England, where he arrived the Decemb'r following, and where he has lived as a peaceable inhabitant untill June last, when he embark'd for America on monies ariseing from the proceeds of vessells sent to England in the year 1775, and the cargoes the were laden with solely belonging to him, which vessells, had the not been so sent before 31 Decem'r of that year were declared confiscated under the act of the 16th of George the Third, and lawfull prize to any cruizer that might meet with them, either in any American port or on the high seas. The same A. B. was ac. the month of Aprill, 1780, called upon by name, with others, in a proclamation issued by the Executive Council of Pennsylv'a to appear in nine months to take his legal tryal for haveing knowingly and willingly adhered to the enemies of the United States; but not appearing within this, and a further time of 12 mths. that was extended to him to take his legal tryal, has incur'd the penalties set forth in the act under which the council issued their proclamation, forfeiture of estate, &c.

From the above short relation of facts, can A. B. avail himself of any steps to recover his property, now apply'd to the use of the College of Philad., in the opinion of Mr. Ingersol, with any likelihood of success? In the opinion of Mr. Ingersoll, does the laws of Pensylv'a and practice of the courts, notwithstanding the attainder of A. B., consider his person as safe for one year from any molestation from the treaty, and for ever, if he conforms to such acts as the laws may require of persons takeing up their residence in the State; or do the State of Pennsylvania consider the provision in the 6th and sixth article not binding on them in any respect in the case of persons attainted?

Can A. B. bring actions in any of the courts for the recovery of debts incurr'd and oweing to him since the peace?

54.

Petition to the Supreme Executive Council of Pennsylvania.

To his excell'y the president and the hon'ble the members of the supreme executive council of the State of Pennsylvania:

The petition of sundry citizens of the said State in behalf of Matthias Aspden, formerly of the said State, and now under attainder, humbly sheweth:

That the said Matthias Aspden left this State and went to England in the year 1776, and before the establishment of the present Government.

That from the circumstances of his property in that kingdom he could not leave it during the war without hazarding the loss of the greater part of his fortune.

That not appearing in consequence of the proclamation of your hon-

orable board, he became subject to the pains and penalties of high treason.

That during the late war he conducted himself inoffensively; no act of malignity having been even alledged against him.

Therefore your petitioners pray your honorable board to take the premises into your consideration, and to pass such act of council as will relieve the said Matthias Aspden from the said attainder, so far as regards his person, and restore him to the priviledges of the freemen of the Commonwealth of Pennsylvania.

And your petitioners, &c.

(Copy.)

Signed by a number of respectable citizens, and principally by those who are deemed the most active friends to the revolution.

55.

Pardon of Matthias Aspden.

PENNSYLVANIA, *ss.*

The supreme executive council of the Commonwealth of Pennsylvania, to all to whom these presents shall come, greeting:

[L. S.]

CHAS. BIDDLE, *V. President.*

Whereas Matthias Aspden, late of the county of Philadelphia, hath been convicted of high treason, and hath petitioned this council, praying us to take his case into our consideration, and to extend mercy and pardon to him: wherefore, know ye, that we having duly considered his case, have pardoned, remitted, and released, and by the presents, for us, and our successors, do pardon, remit, and release, unto him, the said Matthias Aspden, by whatsoever other name, or addition of name, or place, the said Matthias Aspden may be known or called, or was lately known or called, the treason aforesaid: and all and singular the indictments, condemnations, attainders, and executions, and penalties, whatsoever, upon or against the aforesaid Matthias Aspden, for or concerning the premises, had, done, rendered, or adjudged, or hereafter to be had, done, rendered, or adjudged: also, all and singular the outlawries, by reason of the premises, or either of them, proclaimed, or hereafter to be proclaimed; and all and all manner of suits, complaints, impeachments, censures and process whatsoever, which the said commonwealth against him, the said Matthias Aspden, by reason of the premises had, hath, or hereafter may in any wise have, and the suit of the peace of the said commonwealth, which against the aforesaid Matthias Aspden pertains, or may pertain, by reason of the premises firm peace to him thereupon give and grant; not willing that the said Matthias Aspden, by the sheriff, justices, bailiffs, or other our ministers or successors, for or by occasion of the premises, be molested, disturbed, or in any thing aggrieved. And willing that these letters patent (as to the premises aforementioned) be and remain good, firm, valid, and effectual in law; and that this pardon be in all our courts within this commonwealth

and elsewhere, interpreted and adjudged in the most favorable sense, for the more sure release, pardon, and exoneration of the said Matthias Aspden; and also be pleaded and allowed in all the said courts, without any other writ, grant, or declaration in that behalf, obtained or to be obtained, any defect or defects in these letters patent contained, or any law, act, ordinance, or provision, proclamation, or restriction, or any other thing, cause, or matter whatsoever, to the contrary hereof in any wise notwithstanding.

Given in council under the hand of the honorable Charles Biddle, esquire, vice president, and the seal of the State at Philadelphia, this eighteenth day of April, in the year of our Lord one thousand seven hundred and eighty-six.

Attest.

JOHN ARMSTRONG, Jr., *S'y*.

56.

Jos. Harrison, Philadelphia, to Matthias Aspden, London.

PHILA., *May* 1, 1786.

DEAR SIR: I will just avail myself of the opp'y pr. the packet to inform you that the pardon is signed and inclos'd to you in a letter from the vice president. I will send you by a ship that sails 3d inst., the extract from the minutes of the council, and a copy of the petition I presented to them. I went on the 29th ulto. to Chester, to purchase your estate in that county, which was that day expos'd to sale as confiscated property; but it sold very high, and having no instructions from you, I declin'd purchasing. I will be more full on this subject in my next. I will now give you a copy of the original extract:

"In council, Jan'y 19, 1786.

"A petition of sundry inhabitants of this city in favor of Matthias Aspden, an attainted traiter, was read, and a question taken whether a reprieve shall issue to the said Aspden until the end of the next session of general assembly. This question was determined in the affirmative."

Ap'l 10, 1786.

"Council took into consideration the case of Matthias Aspden, and thereupon

Ordered, That he be pardoned.

Extract from the minutes.

JAMES TRIMBLE,
For JOHN ARMSTRONG, *Sec'y*."

I am afraid I shall be too late for the post, and therefore conclude myself,

Affe'y, yours, JOS. HARRISON.

Endorsed—Mr. Matthias Aspden, to the care of Messrs. Thomas Hankey & Co., bankers, London. Pr. packet.

57.

Joseph Harrison, Philadelphia, to Matthias Aspden, London.

PHILADA., *May* 5, 1786.

DEAR SIR: You will receive with this the extract from the minutes of the council respecting your business, and a copy of the petition I presented to them. Mr. Biddle has forwarded to you the pardon, so that there is nothing now in the way to prevent your coming here when you please. I also inclose you 2d bill exch'e, to replace my d'ft on you. As it is probable you may do some business on your return, I w'd recommend to you the purchase of a British built vessel; for no other, from the late regulations in England, can possibly ** swer any British market, and the h** tonage laid on such vessels by our assembly is now taken off. You would greatly oblige me if you could facilitate some business for me thro' Europe and the West Indies. Such is the state of business with us, that none but commission business can produce advantage. I must also beg the favor of you to present the inclos'd letters to Mr. Wilmot, and to offer him a proper fee for his opinion on the case transmitted to him. It is with respect to the debt owing by Jos. Galloway to my mother; and as little can be obtained here for it, I think, with many others, that an application to a British court of justice may be successfull. The case is fully stated to Mr. Wilmot, and you will be good enough to obtain his opinion as soon as possible, and transmit it. I wrote to you a few days since per packet. I informed you that I had been at Chester, to attend the sale of your farm, and fully expected, from the particular circumstances of the case, that I should have bought it in at a low rate. Many whom I spoke to declined bidding on my application to them, tho' they had come down on purpose. Mr. E. Bartholomew, our excise officer, was the purchaser. He was determin'd on having it, he having bought a great number of certificates. It sold at £1,090, which is in specie about £400. Having no instructions from you, and Mr. Hartley being undetermin'd what to do, I thought, under these circumstances, it was right in me to let it go, especially as £400 may be employed to much better advantage. My mother and family send their loves. Expecting shortly to see you, I am, in the mean time,

Affe'y, yours,

JOS. HARRISON.

Endorsed—Mr. Matthias Aspden, London.

58.

John Forster, London, to Matthias Aspden.

OFFICE OF AMERICAN CLAIMS, LINCOLN'S INN FIELDS,

June 23*d*, 1786.

SIR: I am directed to acquaint you that the commissioners having reported their opinion, pursuant to the direction of the act of parliament,

to the lords of the treasury and secretaries of state, cannot do any thing upon the subject of your memorial.

I am, sir, your most ob't serv't,

JOHN FORSTER.

Mr. Matthias Aspden.

59.

Jos. Harrison, Philadelphia, to Matthias Aspden, London.

PHILADELPHIA, *June* 30, 1786.

DEAR SIR: It was with extreme astonishment that I found, by being presented with the protest, that you declined to honor my dft. on you for £240 stg. This I must acknowledge was very unexpected. You must now be in cash on my acc't, valuing the livre a. 10d. stg. £250 stg.; and admitting that this reimbursement had not arrived in time, I will not suppose your finances or your credit so low as to put it out of your power to honor my signature. Had I reason to think you intended for this country at the time you visited it, I should not have forwarded to you a bill which was the ground of my drawing on you last summer, and which by your absence was subjected to a protest. Small as my fortune is, compared with yours, should you from any circumstance, be induced to draw, I will honor the dft. for twice the sum. However, I did not mean to complain; I only intended to express my surprise. I have wrote you many letters lately, particularly by the Harmony, inclosing you a brief with respect to my mother's claim on Joseph Galloway. On her account I flatter myself you will do every thing in your power to ascertain the probability of success on an application to the courts of justice, should a personal one fail in procuring payment from him. You will oblige me by informing me if the bill on Paris has been negotiated.

Aff'y, yours,

JOS. HARRISON.

60.

J. Galloway, Cotham Lodge, to Matthias Aspden, London.

COTHAN LODGE, NEAR BRISTOL, *Sept'r 6th*, 1786.

SIR: I have attentively considered your favor of the 4th instant, and with much pleasure give you my conjectures on the motive which leads the commissioners and the treasury to refuse informing you what their determination is on your claim. They must be conjectures only, because Government, in all its departments, has acted towards the loyalists with an affected and unprecedented secrecy.

You tell me you informed the commissioners that you left America in the summer 1775; that you might have stayed there if you had chosen it, and that you intended to return there again to remain with your connexions. I fear they have considered all this as opponent to

the merits of your claim, and have determined that you do not come within the meaning of the act of parliament which appoints the enquiry into the claims of the loyalists. This act confines their power to the claims of those who have taken an active part in suppressing the rebellion in pursuance of his Majesty's proclamation, and the several votes of the two houses of parliament, promising such persons compensation for their losses sustained in consequence of their activity and loyalty. Now, I suspect they have said, in their hearts, that, by your own confession it does not appear that you took that active part called for by his Majesty and two houses of parliament, for which the compensation was promised; but though you considered yourself at the time you left America a British subject, and adhered to your loyalty, yet you preferred your own safety and that of your property to obedience to the proclamation and votes of parliament, upon which the loyalists contend for their claim upon government. The commissioners therefore have put you not in the class of loyalists who stayed in America; run every risque, and opposing the sedition, suffered a confiscation of their property; but in the class of British subjects who have taken no active part in attempting to suppress the rebellion.

I am led to this conjecture by knowing that there are a number of persons whose property has been confiscated in America, considered in this light by the commissioners and the treasury, and to whom neither of them will give, tho' often requested, any satisfaction as to the sum reported, and whose claims have not been in any degree compensated. Mr. Knox, late secretary to Lord George Germaine, and Governor Boone, one of the commissioners of the customs, &c., are in this predicament. Their claims have been heard, and, like yours, reported to the treasury; and yet, with all their interest with members of parliament and others, they have not been able to learn what was the sum reported to be due, if any, or what was the determination of the enquiry.

Mr. Pitt has indeed say'd in parliament that there are persons who, though not within the meaning of parliament, may be worthy the consideration of the house, meaning, as I conjecture, British subjects who had taken no active part in suppressing the rebellion, and who, living in England, had their property confiscated by the American States. The report upon these claims he keeps more secret than those of the loyalists. For what reason I know not, and indeed it is impossible to conjecture.

I have thus, sir, given you my candid opinion upon the difficulties you seem to have met with in your claims upon Government. I wish it was in my power to give you a more perfect one, it should be equally at your service. I shall be in London about the first of January, when I shall be happy in rendering you any other good offices in the power of

Your most obed't serv't,

J. GALLOWAY.

Endorsed—Mr Matthias Aspden, Spring Gardens, No. 9, London

61.

J. Galloway, Cotham Lodge, to Matthias Aspden, London

COTHAM LODGE, near Bristol, *Sept'r* 20, 1786.

SIR: You entirely mistook me if you conceived that any thing contained in my letter was intended as a vindication of the conduct of the commissioners in your business. You requested I would give you my opinion on their motives. I accordingly did, but without intending to justify those motives. I did it with a view to enable you to meet their objections by fair and forcible argument, and if possible to remove them. As to my own opinion, I am clear that they ought not to place you in the class of British subjects who never were in America, and who have done no overt act to demonstrate their allegiance and attachment to the British constitution. You were in the country; were pressed to enter into the rebellion; you refused, and adhered to your allegiance, in consequence of which your property was confiscated. This places you in a very different predicament from those who have never given any proof [of] their allegiance.

I will mention another conjecture to you as the cause of their not allowing you compensation, which I omitted in my last. You told them, as you inform me, that you were determined to return to the new States and live there. Now I know the commissioners have carefully made the enquiry whether the claimant intended to desert his allegiance to the British Government, and to become a subject of the States, and the treasury, even after the report has been made, has made the same enquiry with a view to stop payment. I therefore think, as you have changed your mind and resolved to continue in this country a subject of the crown, you should communicate your resolution to the commissioners, if not already done.

I again beg you will be assured that on my coming to town I shall be happy in giving you my best advice on this or any other occasion.

Being very truly your friend and most obed't servant,

J. GALLOWAY.

Endorsed—Mr. Matthias Asden, London.

Endorsed in handwriting of Matthias Aspden.—"The condition of compensation, if any special intended, should and I conclude would been mention'd in the bill, and not left to private opinion, as knowledge was unsuspectingly obtain'd thro' ensnaring questions, as in my own case, to my great suffering and injury."

62.

Memorial of Matthias Aspden to the Lords of the Treasury.

To the right honorable the Lords Commissioners of the Treasury.

The memorial of Matthias Aspden, formerly of the city of Philadelphia, merchant, sheweth:

That your memorialist, conceiving his case justly to come within the

intention of the act appointing commissioners to inquire into the losses and services of the American loyalists, was led to present a memorial to the aforesaid commissioners, in December, 1783, setting forth the losses he had sustained under an act of attainder in consequence of his loyalty and attachment to his Majesty's Government, and was examined on the same in the month of February, 1785.

That your memorialist, encouraged by favorable advices to visit America, which he applied to the temper of the populace and not to any doubts of safety under the treaty, at least for a year, and desirous of taking the burthen of his small claim from this country, if he could, and obtain restitution in America, which would put him, in point of privileges, on footing with other British subjects, embarked, at some considerable expense, on the 10th of June of the same year, in the packet from Falmouth to New York, and on the 20th of the following month arrived there, and a few days after at Philadelphia. Of his going and intention therein, he wrote the commissioners some weeks previous to his departure, and if he should succeed in getting his property restored that he would give early notice, and withdraw the claim he had made for the same here.

That your memorialist, very soon after his arrival in Philadelphia, beginning to entertain doubts from matters that came under his notice whether he was right in the light he was taught to believe the treaty considered, was led from his situation to consult council how far persons attainted of high treason, under any acts of the State, were deem'd protected by the fifth and sixth articles of the same; who informed him that no person was considered in the practice of the courts of Pensylvania as protected by the treaty where judgments had gone against them previous to the signing of the same, adding, that he then knew the judges had it impressed on their minds as their duty to bring this question to an issue from some doubts entertained; and that a writ was issued or about to issue to take up the body of a person in the predicament your memorialist had described himself. Under these circumstances your memorialist, seeing he was not in safety on the ground on which he had ventured to come, and not knowing who the object was that might be fixed on to determine this matter, he withdrew the same day into the State of Jersey, and an opportunity offering soon after from New York, he embraced it and returned to England, and on his arrival wrote the above particulars to the commissioners, and desired to know (as a report had been made to your lordships, on claims examined subsequent to his, and no report that he could learn made on his) on what grounds the same had arisen, whether want of proofs of loyalty, confiscation of property, or value of the same, that he might bring such on either of these heads as would fully satisfy the commissioners; to which he received the following answer, dated

Octob'r , 1786.

"The commissioners have reported on Mr. Aspden's case to the Lords of the Treasury, and cannot communicate the particulars of their determination to the parties.

No further proofs are required of Mr. Aspden."

That your memorialist in the month of June last, on hearing the issue of a petition presented on his behalf to the president and council of the State of Pensylvania, signed by sundry inhabitants, and to which they listened so far as to remit the punishment of the law on his case, but not restore any part of his estate, on the contrary directed that a plantation, the only unappropriated part, should be sold on the 29th of April last, ten days after the date of their charter of pardon—

Presented a second memorial to the commissioners, stating more fully the hardships of his case and suspense he was in as to the purport of their report, the early and decided attachment he had shewn to the British Government, confirmed from his constant residence in this country since the year 1776, the capital he had made to centre in England in conformity to the prohibitory act, which required all American vessels, under pain of seizure, to be sent to England, from the sales of which and cargoes, laden with that he had sent, arose the capital here mentioned; and also his support since he had been here, derived from the interest he received from the same, being invested in the public funds. The sacrifice he had made in abandoning America, where he had good reason to think he was as well settled, in point of connexions, profitable commerce, and prospects, as any young man on the continent, which, in an high degree, had been made necessary from the further means of his support having centered in England in the manner already stated, and doubts entertained of his own safety from popular tumult, on account of his well known attachment to the former Government, which it had been his wish and endeavor to preserve from the beginning, as far as in his power, and therefore desired that the commissioners would reconsider his case, and allow him such relief under their report as his claim intitled him to. To which he received the following answer, dated

JUNE, 1786.

"The commissioners have reported on Mr. Aspden's case to the Lords of the Treasury and Secretarys of State, and cannot go on the subject of his 2d memorial."

That your memorialist from the above concludes, whatever may be the purport of the commissioners' report on his claim, the same is final, unless a reconsideration of the case is directed by your lordships, which he is informed has been the case in some instances, and flatters himself from what he has here stated, the risk and expence he incurred in going to America to recover his property will make the justice of allowing it in this appear evident to your lordships, and that you will be pleased to direct the commissioners to go into a reconsideration of the same, and allow him such relief as he may be intitled to; or if this cannot be done, your memorialist earnestly desires, as a matter in which humanity is concerned, that your lordships will direct him to be informed on what ground his claim stands under the commissioners' report; that he may be relieved as well from a painful state of suspense

as prevented (should his claim be rejected) from wasting any more time on a business to which he has given the attention of years and experienced many inconveniencies.

And your memorialist shall ever pray, &c.

LONDON, *Decem'r* 15*th*, 1786.

Address at Messrs. Thom's Hankey & Co., Fenchurch str., London.

Endorsed in handwriting of Matthias Aspden—"Property claim'd under the will of his father:

Plantation distant sixteen miles from Philadelp'a -	£1,150 0 0
House in Philadelphia in which he lived - -	3,350 0 0
	£4,500 0 0

Makes exchange 66⅔ds. sterl'g £2,700 0 0.

Valued in currency as above under the affirmation of three respectable people in and of the country, Novem'r 10th, 1783.

Estimate given in by himself to the commissioners previous to the revolt. considerably under the above."

63.

Case of Matthias Aspden.

A CASE.

A. B. is a native of America, and settled as a merchant in Philadelphia, at the breaking out of the late war, in a line of business very respectable and profitable; so much so that in course of a period of five years, say from his comeing of age to the close of the year 1775, he added to his capital £14,000 curr'y, (exclusive of the expence of living, which was, like his neighbours, handsome and proper,) and with every reason to believe from his haveing gained experience, encreased his stock, and become more known and established, he should, in future years, make additions much more considerable in proportion than this.

A situation so desirable and flattering to a young man, is only mention'd as a circumstance to show the stake he had in what concern'd the peace and prosperity of the empire; and in particular that division of it in which his residence was fixed; where, content with such advantages and local honours as it afforded, he should never (from the habits of education and the line of his connection) had the most distant wish to have removed.

At the time it was debateing in many circles in America, say the years 1773 and '4, wether the country should admitt or resist the operation of those acts which where pass'd in the Brittish parliament, for the purposes of colony regulation, he never himself gave any opposition to them, or countenanced those that did; on the contrary, (speaking here on the ground of sentiment,) he consider'd taxation in those regulations, not the object in view on the part of Great Brittain, tho' connected with them, or ever would, as well from policy as justice,

(while the monopoly of the commerce was secured,) as the exercise of those powers in the head of the empire over countries dependant, as where necessary for the purposes of general good—and if resistance on the part of the subject was justified in any case, it could not be in that of the exercise of powers for these purposes, but in the abuse of them.

Influenced by the strictest loyalty, and motives of the purest affection for the real interest and happiness of the division in which he lived, he was desirous of an acquiescence thro' America in those regulations, and frequently expressed himself, while it was safe, to this effect.

In the month of F'eb'y, 1775, the committee of the county of Philad'a met in Philad'a for the purposes as reported, of recomending to the people to associate and arm themselves; this idea was received by him, and generally so thro' the city at that time, with that horror, if he may use a proper expression, that the committee drop'd the business, published a few resolves for encourageing the growth of wool, and adjourn'd themselves, leaving the town in a state of order and tranquility, untill the latter end of the month of Aprill following, when an account was received at Philad. of the affair at Lexington; this threw the people in this city and the country round, from the use that was made of it, into the highest phrency. The powers of the old Government were superseded by the authority of mobs and committees; the people were recommended to arm immediately; and every handle for this purpose furnish'd therefrom faction could wish; and no person much known, safe, who did not lean or run with crowd. Soon after this he was apply'd to to join a company of the better class of young of Philad'a, called the Silk Stocking company, who had taken up arms; this he refused, as a measure according to his way of thinking, unjustifiable, rash, and inconsiderate. The recommendations that were publish'd generally for the people to arm and form themselves into companys not being attended with the effect the committee expected, *the* drew the matter closer, and recommended the inhabitants in each township in the country to meet at a house appointed in their respective township; and the inhabitants of each ward in Philad'a to meet at a house fix'd upon in their respective wards, and there choose officers, and form themselves in companys; this measure drew every man's eye upon his neighbour, and made it dangerous for him, at least he thought it so, who was a young man in a conspicuous station, and could urge no excuse, or what *the* would think one, not to take some part in appearance; on this occasion, he at first endeavore'd to parry it by going with two of his friends round to ten or dozen persons in the ward he knew, and immediately in their neighbourhood, to desire *the* would meet at a place appointed, not that fixed upon by the committee, and there without chooseing officers, sign conditions, or go out on the common, just learn the manual exercise, as a matter there could be no harm in. This was done the day previous to that fix'd for the general meeting of the ward, and happening to be heard of by some violent leaders of the same, *the* came down there, call'd the business dark, mysterious, tending to divide, counteract, &c., and spoke in that

language that lead one to go, and another to go, that he became unsupported, and his intention in this matter frustrated.

The ward company soon after this was form'd, which he went out to exercise with at occasional times for about two months, for the reasons already mention'd; and thinks, on this account, he in so doing in no respect departed from his allegiance, but is justified on the strictest principles of law and justice. No association paper was signed by him, and on this account he was disarmed; or in other words, persons *where* sent by the authorities of those times to demand them.

In the month of Septemb., 1775, he had determined to come to England, and had his stores prepared to embark in a ship of his, that was then ready to sail for Bristol; but the alarm at this time given to his friends, by the carting about the streets of Philad'a a respectable physician of the name of Kearsly, to whom he had given hints to be on his guard, (that mischief was intended again the Torys, &c.,) and who died in confinement about fifteen months after, a victim to this business, prevented him from going at this time, from the appearance it had of lessening the strength of his friends, and a desertion of them at a distressing period, tho' his own doubts of safety urg'd him strongly to it.

In the month of March, 1776, a packet arrived from England at New York with a large mail, which was sent ashore, and the letters forwarded to hand as usual. At this time, the dead weight in the scale, to make use of the term of the times, *where* so got under from the doings and threats of mobs and committees, that not being able to be of any support, or scarcely comfort to them, whom he considered his friends, and not without apprehensions he might meet with some disagreeable assault from the disorderly state the country was in, he determin'd if not hinder'd, to go to England by this opportunity; and accordingly reported, to make the objection and difficulty less, that the letters he had lately received, had inform'd him that some affairs of his in England where in a very critical state, and required his immediate going there; tho' this was said merely as an excuse, it would be departing from truth not to allow, with his sentiments and in his exposed situation, having four-fifths of his fortune come to, was an inducement, and from the manner in which it came there, and the hands it might be in, (which will hereafter be related,) he conceived his conduct in this respect consistent with every principle of loyalty, honour, justice, and law. He accordingly went to New York, and had a letter given him by his friend there, Mr. H. Wallace, one of the council, and now one of the attainted loyalists in England, to Govern'r Tryon, who was then aboard the packet laying at the Narrows, ab't twelve miles from New York, and which he went with, (haveing leave from the comittee, who first desired he would let them see what letters and papers he had, and to declare that those where all,) in the boat which pass'd between his majesty's ships and the town, for the purpose of furnishing them with provisions; and on his reaching

the packet, deliver'd the letter to Govern. Tryon, in comp'y with a person now in England, who came along with him, and was going there, and after reading the letter, told them he had no objection to their going in the packet, but must require, as a condition, that the would consent to his inclosing all the letters and papers to Lord G. Germaine, which on application would be immediately given them. Conscious of the ground he stood upon and was going, and strange as this proposal appear'd to him, he and the other told him the *where* very willing to it, and imediately offer'd their letters and papers for this purpose, to which the were told it was not necessary just then, but were desired to stay on board, as the packet might sail in a very few days, and did, about a fortnight, when two young men, natives of England, accompaynied by the brother of the person who had come with him, came down to Govern'r Tryon, who was then on board the Duchess of Gordon, a ship he had hired for his residence, and desired his permission to go home in the packet. The Govern. told them if the would take an oath which he showed them, and which was that the would inform one of the secretarys of state, and no other person, all the knew of any treasons, rebellion, conspiracys, &c., in America, the should go. Wether it was that one of the young men, who was bred to the law, thought the Govern. in this case was exceeding his authority, or that he might not like to leave a country under the odious character of a sworn informer, where he said he had been kindly and hospitably entertained—but the both refused to take the oath, and said it was hard on them, who wanted to go home to their relations and friends. The Governor told them, as they said, he could neither suffer them nor any persons, to go in the packet who would not take it. This occasion'd the person who had accompany'd them, and whose brother had come on board the packet along with him, to come down to him, the packet laying eight mile below the ship the Gover'r was in, to tell him he must imediately go up to town; for if he took an oath or affirmation such as Govern. Tryon said he should require of every person who went in the packet, it would so incense the mob, that their father's house in Philad'a would be pull'd down, and their family experience the utmost ill treatment. Perplex'd at this account, he talk'd with some of the other passengers (strangers) who were going; perfectly recollected the condition on which permission was given to go in the pack., and could not believe after being on board so long, Gov'r Tryon would depart from what he promis'd. Yet to stay and the other return, would imply on shore, as soon as it was heard, a disposition in him to do any thing and incense a mob, who had near relations, and a house in Philad'a to pull down, to acts of violence as much as if it was known he had taken the oath, and who had as much reason to apprehend their resentment in such a case as any one—he therefore concluded he would go up to town, and desire his friend to get Mr. Mathews, the mayor of New York, to go down to the Govern'r, whom he was often with on business, and enquire what the oath was, and if as I had been told them, to get him to dispense with it as unecessary, and

likely to furnish the mob with a handle to destroy his property, and do injury to his relations in Philad'a. As requested, the Mayor went to Gover'r Tryon, and bro. answer that the Govern'r would let him and the person that went along with him, go on the first conditions mention'd, as he had given his promise, but would suffer no other persons to go who did not take the oath. On this he went on board the packet again, and the other person along with him—his brother being satisf'd with the answer the Mayor had bro.—first giveing to a person in New York, who provided stores for shipping, a list to send, if he could get permission, which the capt. of the packet gave him, and desired him to do. On reaching the packet, he went and waited on the Govern'r, and after some conversation, offer'd again his letters to enclose; this was waiv'd, and another time said would be more convenient, as it was not likely the packet could said for some days. On this he return'd on board again, and the next morning the Mayor calling on board the packet in his way to wait on the Governor, to whom he was going on some business, he desired him to urge the Govern'r to let the others go on the conditions he was going, one of whom he particularly knew; but on this head he was desired by the Mayor to be silent, as it was not likely, and had been as much he could do to prevail upon the Govern. to let him and the other go, to whom he had given a promise; after this ab't a fortnight, Govern'r Tryon sent his compliments to the passengers, and would be glad to see them. They went, and the first thing he heard was Governor Tryon telling him he was sorry his duty required that the passengers going in the packet should all take the oath that has been already mentioned: his mind impressed with doubts at this fickleness, or whatever else it may be called, he told the Governor that he had come on board the packet, and there remained on the first assurance he had given, and the same repeated a fortnight after to the Mayor of New York, and could not take the oath, as well from his thinking it unnecessary, as the handle it would give the mob for injurious purposes on shore; that it was peculiarly hard to press it now, as he had wrote to Philadelphia his going in the packet was finally fixed, and to lock up or rent his house and dispose of his servants, which he did not doubt was done; the oath of allegiance was offered to be taken; the other, from not knowing or considering how far duty carries a good subject in this respect, prejudices on his mind respecting the character of an informer, and the other circumstances connected with it already mentioned, joined to doubts, where persons change their mind without proper occasion, lead him, and the persons with him, to look upon it as not reconcileable. The others, five in number, but were not natives of America, or had connexions or property therein, he believes, took the oath.

A day or two after he waited again on the Governor with his friend, to try if he could not get relieved in this matter, and if not to get a flag and be put on shore; they were answered by the Governor as before, that his duty required it, and that it would not be dispensed with; and

that as soon as a flag came from New York, which was expected, they sh'd go ashore; on this the returned to the packet, and the next day were told whether the flag came or not, the would not be allowed to go before the packet sailed, a circumstance that struck them as very unjustifiable; and that the Govern's boat then would come and take them out; accordingly, the morning the packet sailed, the capt., or some person on the quarter-deck, hailed the boat belonging to the ship the Govern. was in and usually attended him, and was then near either going or returning from some vessel in the fleet, to come and take the passengers out that were not to go, which she did, and then went on board the ship the Govern'r was in, say between eight and nine, who was then not up; but as soon as he was, and the saw him, the desired he would let a boat land them as a flag on the nearest shore; this was not comply'd with until the next morning, whether from the desire, as he was politely pleased to express, he had that the should dine with him that day, or that he, or the person with him, might be capable of giving information of the packet's sailing, to hurt of the service, he does not decide; the first ground from his refusal was not over palatable, and the reflection that it might be the latter, from the character under which he had come on board the packet, and disapprobation he had express'd of the measures ashore, painful to him. The next morning, a certificate he had requested for his protectiou to show the committee or the officer of any comanding party on shore was given him, setting forth that he had come from New York to go in the packet to England, but the alterations which the Govern'r had made in the conditions on which he could allow him to go, or to this effect, had prevented him and the person with him, and occasioned their return on shore; a boat was then furnish'd, with two hands, who rowed them ab't four miles to the shore, he holding, as the approach'd the same, a flag, and was met, when the landed, by a guard of soldiers, to the officer of which he showed his certificate, and desired he would not hinder the boat from going back to the ship, which he said he should not, and the boat accordingly return'd; but that the must go before the committee, which the did, with a person sent with them, to whom he showed again the certificate, and related the reasons of their return ; the seem'd satisfied, and said, the where at liberty to return to their homes. On this he immediately went to Philad'a, where he remain'd ab't six weeks, when a gentl'n of his acquaintance came up there from Maryland, who was on a very friendly footing with the late Sir Rob'r Eden, the then governor of that province, and mentioned that he was going to England very soon; and that the convention, setting at Annapolis, had given leave for a flag to come and take him away; and that, if he would go, he would give him a letter to him, and was certain that Govn'r Eden would get him a passage along with him, and that the convention would not hinder it; on this he ventured to go, deliver'd the had to Governor Eden, who received him with much civility, and told him he should be very happy to get him a passage with him, but could not fix any thing certain on this matter untill he saw Capt. Montague, of the Fowey frigate, who

was the flag that was come for him. Two days after, ab't four in the afternoon, the Fowey came up and anchor in the bay of the town of Annapolis, and ab't four miles from the same; Governor Eden very soon after, with a young man from Philad'a, who come there to go with him to England, and from thence to the East India, where he went, and returned back three years ago with a handsome fortune, without ever being proscribed or attainted in America; and a person of the town went on board, and said the should return again that evening, and he sh'd know whether he could go or not; but the not doing it, or perhaps intending it, he got no answer that night. The next morning complaint was made to the convention, that some indented serv'ts had run away in the night, and gone on board the Fowey; an officer was sent to demand them—the were refused—on this the convention voted the truce broke, and forbid the Governors's stores, or any intercourse between the shore and the ship; threats came from the ship, if the Governor's stores were not sent off, the would fire on the town; on the side of the town where there was [a] large body of soldiers laying, the threatened in return if the ship did fire, they would put every tory there to death; and had any fireing on the town takeing place, there was too much room to think some acts of violence of this kind would have happen'd; at least he, and he believes some others in the town, were apprehensive of their safety. But the Fowey proceeding down the bay the day after without firing, quieted the town, and relieved him from those doubts he had been before under.

The day after this, he retired to gentleman's house of his acquaintance ab't twelve miles in the country, as a place of greater security and more out of the way of insult of any disorderly people in the town, where he remained several days, and then went to Philad'a; for him to have attempted to have gone on board the Fowey privately, would been running great risks from the guard boats rowing along shore, and as stranger impracticable, who did not such time as mention'd, know where to apply, or whom to trust; again, he could not but consider it as a slight on the Govern'r to take of the person he did, one who went and whose view was to go to the East India to make his fortune; the other most likely only to be out of the way, and leave him to take all chances; his reception, had he gone on board privately, might been on the quarter deck, or it might have been with the herd otherwise.

On his return to Philad'a, he went to reside with relations, his own house being let while he was on board the packet; and there staid untill ab't the middle of Sept., when a little vessell unarm'd offering for Corrunna, in Spain, of ab't 40 tons, on a mere voyage of trade to support the man's family, who was the master of her, he was induced literally to take his chance in her, (captor not meant) from the disorder the country was in, and the constant dread he was under of some disagreeable event, from his neither countenanceing or approveing their measures, and was convinced and had been from the begining, in belief the would soon sorely repent; he accordingly embark'd in this little single deck float-stage, to use the capt'n's expression, the 18th Sep't.,

1776, before the had the equinoxtial gale, usual at this season; and after a tedious and harrassing passage of seven weeks and better, arrived on the 10th of Novemb'r following, at Corrunna, where imediately on his going shore he waited on the consul, and told him, from cross circumstances, he had been lead to take that rout to England, and claim'd his protection as a Brit*t*ish subject, which the letters of credit he bro't from well attached people in Philad'a to Spanish houses there well supported, and was extended to him dur*e*ing his short stay, in the most friendly and polite manner. A large Leith sloop, offering from thence to England, he took his passage in her, and was put on shore at Dover, the 2d of Decem'r following, and immediately proceeded to London, where a day or two after he was call'd upon by a merchant of the first repute in the city, who knew his character, acquaintance in the country, and line of connection, and told by him the Secretary of State, Lord G. Germaine, would be glad to see him; and express'd this as from him, without which from the long time he had been com*e*ing from America, the little he supposed himself to know, he should have thought it forward in him to have gone, tho' being known to him was highly proper in his situation; and on this account shl'd have wish'd it. He accordingly went with the person here mention*d*, and had a conversation with the secretary for two hours and better, in the course of which, he answered him with candour every question he ask'd him, and without reserve; and gave him every inf*o*rmation he knew of the state of things in America, as much as if he had been sworn to it a thousand times over; and believes Lord G. Germaine, from his behaviour, was perfectly of the loyalty and character of his visitor.

In the vessel*l* in which he came to Corrunna and to England, he br't a young man at some expence, who had been taken in a ship he was master of, going from Dominica to Bristol, and carried into America, which ship he commanded out of the port of Philad'a when she belong'd to him, before the prohib'y act took place, and might then really belong to him, and who was much press'd in Philad'a from his being known to be an active, intrepid seaman, to take a command in one of their arm'd vessel*l*s, but was prevail'd upon by him to reject it, and to go to England where he had a wife, and show himself, and let them see he had not betray'd his trust, and where he would take care to give him employ; which he did without benefit or view to it for several years, merely to serve a faithful*l* serv't, and to keep him from engag*e*ing in measures he did not approve of; or otherwise it was likely he might have done, from the difficulty an American capt. had to get bread in England.

As his coming to England was on account of the reasons mentioned, and not to avoid any obligations of duty as a loyal subject, or as an adventurer to traffic, which even if he had been disposed to from the precarious state of the islands, and his want of knowledge, (as a stranger,) of every kind of business in England, was in a maner impracticable; nor was it necessary, for a liv*e*ing from the funds he had in England being sufficient for this; which were principally laid out in

annuities at the bank, to the service of the State, and which, if he now wanted for the purposes of commerce or purchase of lands, he must sell to considerable loss.

His residence, since his first comeing to the 10th of June last, (a period of near nine years,) except an excursion of six weeks he took one summer to Flanders and Holland, but never to France, has been constantly in England, where he is sorry to say he has experienced, from first to last, treatment of the most pointed neglect and studied unkindness; and had he been capable of departing from his duty and joining in rebellion, the cause h'as had has been great. Invitations has been given to an American, lodging in the same house with him, to corporate dinners, and none to him, whom he believes the know to be a man of as fair prospects and as much credit in America as ever was in their city. In London, where he has principally lived, and the greater part, regularly, of five year at one house, in Norfolk street, in the Strand, not a person of his mercantile acquaintance from the city, the only acquaintance he had, or as an American was able to get, ever call'd upon him to say are you sick; are you well; are you in comfort or affliction; will you take a walk this morning in the park; or have you been to a play or to any public place, or will you go? Not a single call in this way from any one, except one from one who had reap'd considerable profit by him, and a distress'd loyalist now and then for assistance, which was never deny'd. This situation, joined to his views and prospects in life being cut up, and no likelihood, from the turn things had taken in the division he had left, of returning, which was his wish and intention, to any good purpose, that it was more than he could support. His mind was also much depress'd at times, on account of the channel thro' which he came to England, which lead him to doubt he might be at the mercy of the letter of the law; and from the partial suspension of the habeas corpus act, not entitl'd to it, and to wish he had repair'd immediately to the British standard in America, and got a certificate or pardon, tho' never supposed himself, from any thing he had done, to stand in need of any from the commissioners, and their leave, when convenient, to come [to] England. But the idea he was thoroughly prepossessed with, that the whole business would be over in a very short time after the arrival of Sir Wm. Howe, and the country restored to peace and tranquility, made him think it perfectly immaterial.

In February last he was examin'd, by the commissioners for American claims, on the subject of a memorial which he had presented fifteen before, in substance what has been here related, and that, from his not appearing to answer on tryal on charges of high treason again the State of Pennsylv'a and United States, in assisting and adhereing to the enemies of them, he stood convicted of the same, and his estate seized and forfeited to the use of the State. That, in June last, supposing himself to be protected by the 5 article of the treaty for a year, and in consequence of letters he had received from relations in Philadelphia, telling him that such persons were and had been there in

his situation; and that, in their opinion, the believed he would be safe, this he supposed was from the mob, he ventured to go, first acquainting the secretary of the American commissioners with it by a line, and that his view was to use his endeavors to obtain the reversal of his attainder, and, if practicable, to obtain restitution of his property, (tho' in his own mind he had no hope, the first being his object,) and if he did, would give him early notice, for the information of the commissioners, and withdraw his claims; it not being his intention, if he got restitution there, to get compensation here. And this he believed he should know long before any report in England would be made by the commissioners on American claims. The latter end of July following, he arrived at Philada., waited on the Governor, and acquainted him with views and ground on which he had come, and remained in the city ab't ten days; when, from the expressions of some and behavior of others, he began to doubt he was not in that safety he supposed himself, and to think it necessary to take the opinion of council on the protecting articles of the treaty, which he did, and was informed by him that the practice of the courts consider'd no person as protected by the treaty where judgment had gone again them; and that he knew it, and thought it but fair to say (or words to this effect) that the judges had it impress'd on their minds as their duty to bring this question on the treaty to an issue. On knowing this it distress'd and surpris'd him, and he withdrew the same day into another State, where again he consulted council; but, finding he had no protection, he took an early opportunity which offered from New York, and return'd to England ab't three weeks agoe, after an absence of little more than three months. Thus far has been a relation of his situation, sentiments, and conduct, from the first beginning or before the war to his return to England. It is now necessary and fair to relate in what manner a conformity to the act of the 16th of his present majesty, call'd comonly the prohibitory act, affected him as a merchant whose capital lay in vessells and effects necessary to load them with. This act gave power for transporting an army into the colonies for the purposes therein mentioned, and declared that all the vessells belonging to the colonists should be sent to England on or before a period mention'd in the same, or be deemed the vessells of enemies, and taken as lawfull prize, whether met with at sea or laid up in the ports of America.

In Feber'y, 1775, he sent a ship with a cargoe of flour to Cadiz, without drawing for any part, as was customary with most merchants in Philad'a, which neated him at nine months about or near £4,000 str'g. This vessel return'd in ballast in June, when the act before mentioned had got to Philad'a, and the intention of it known. This lead him to load her back again with a lighter cargoe than before, and as he had a good deal of money by him without drawing, and to direct the house he consigned her to send her to the Bay of Honduras, with certain articles proper for that mark., where the capt. had orders to lay the same out in a cargoe of mahogany, &c., and proceed to Bristol,

and there lay the ship up, as a cheap port, untill peace was restored. This was done, and the ship arrived safe at the end of her voyage.

In the month of March, same year, he dispatch another very fine cedar ship, on a profitable freight to Cowes. This vessell return'd the 27 Aug. following, and he loaded her without drawing, and was the ship he intended to have gone in back to Bristol—oak, plank board, bar iron, and other articles; and there directed that she should be laid up untill peace was restored, as he had directed the other.

In Aprill, the same year, he had a brig came in from Antigua, ab't 170 tons burthen, with a cargoe of rum, the then had got the account of the passing of the prohibitory act, and being in an oaken vessel not proper to keep, he loaded her with a cargoe of flour without drawing, and dispatched her early in May for Lond'n, with orders to sell the vessell for what she would bring, more or less, and the cargoe, as the market was best likely to answer. The vessell which he esteemed when she left Philad'a worth £900 curr., did not meat him or was not carried to his credit more £23 strg., which he paid, or as much for the captn. passage back. By the sale of the cargoe he sunk half the freight or more. At this time he had in port a valuable consignment from the West Indies, which he sent back with the neat proceeds of the cargoe she had bro't, and informed the *the* owner that he had declined business, and desired he would not send the vessell back to him again, as he should not engage in any untill peace and tranquility were restored again. The principals of the house in Cadiz where he made the consignments mention'd here, lived in London. Thus four-fifths of his fortune, (not capital,) centre'd in England. His vessells as pledges of his fidelity and proofs of his sentiments and loyalty, the cargoes as marks of his confidence and attachment to the British Government. He could go into other particulars as is well known at in Bristol, of persons, natives of America and others, that were kept in employment by him, more with a view to serve them and keep them where the were, than any view of benefit to himself, and which if he had not done, the would most probably, from the difficulty as mentioned of American capt'ns getting employ in England, have gone and join'd the revolutionists in America, and been deem'd by them a valuable acquisition.

He made no claim of debts from being told abroad the commissioners, from their being recoverable under the treaty, would pay no consideration to them. In his case it is not so; nor can he, as he stands convicted of high treason, either give a legal discharge, or bring an action in the court to recover them. His debts are but small, and two, amount'g to £120 curr'y, owing him by Quakers, have been paid; he relinquishing all interest which he did not think proper to hesitate ab't. His plantation has been valued under affirmation, by men of strict probity, at £1,150; but the value he claimed was not more than the land would sell for before the war, were there no improvements upon it. And therefore think this valuation ought to stand as made by persons who better knew the same than he does.

His house has been valued by the same persons, and from the very extraordinary price estates has rose to in the city of Philad'a since the peace, at £3,350, rather less than it would have sold for at the time. But still as claiming the same on this ground look'd like a desire to proffit by the revolution, he waved it, and claim'd only £1,000 str'g, what he suppose the same would have sold for at public sale; this perhaps, is not the right mode to value an estate at what it would sell for at public; but he is content. He never haveing acted with any expectation of reward or view to make property of the State.

The college of Philad'a, to which his house is appropriated, he has every reason to believe, has not received less than £1,000 rent for the same since the confiscation of it on Jan'y 1, 1781, and the State he supposes at least £100 rent for his plantation. These sums were not any claim of, but the rent of the house say £110 before the war, and £16 rent of the plantation let to an old tenant as an indulgence longer than he could remember, told the commissioners******

64.

Lord Lansdown to Bishop White.

Ld. Lansdown presents his compliments to Dr. White. He has just receiv'd a letter from Mr. Wilmot, which says:

"That Mr. Aspden did not, when before the commissioners, make out his loyalty to their satisfaction, and that it is not in his power at present to take up the matter again; but that if Mr. Aspden will send any papers or certificates relative to his case, attention shall be paid to them whenever the business will admit of it."

Ld. Lansdown will, when he sees Mr. Wilmot, speak to him further on the matter.

He requests Dr. White and Dr. Prevost will both accept his best wishes for their safe return to America, and for every possible success in their holy calling. He is very sorry that the shortness of their stay in England has prevented his improving their acquaintance.

He begs to be particularly remember'd to Mr. Jay, and that they will have the goodness to deliver the inclos'd letter to Mr. Arthur Lee.

Lansdown House, Feb'y 4th, 1787.

65.

Certificate of Governor Tryon.

London, *ye 13th Feb'y*, 1787.

I do certify that the oath I required of Mr. Aspden on his coming on board the Swallow packet to go to England, in 1776, which he declined to take, and returned on shore, might not have been owing (notwithstanding the motive I had in it) to any disloyalty in Mr. Aspden, as most probably had he acquiesced, and proceeded on his passage, his

property in Philadelphia would have fallen a sacrifice to the rage and intemperance of the times. WM. TRYON.

To the Hon'ble Commissioners American Claims, Lincoln's Inn Fields.

66.

Certificate of John Nutt.

I do hereby certify, that having received, from undoubted authority, the character of Mr. Matthias Aspden, being a loyal subject, I introduc'd him to Lord George Germain, then Secretary of State for the American department, [at his lordship's desire,*] and was present at the whole of a long conversation, in which Mr. Aspden gave his lordship much information, and the clearest proof of his attachment to the British Government. JOHN NUTT.

London, 20*th Feb'y*, 1787.

67.

Matthias Aspden to Alderman Harley.

Mr. Aspden presents his compliments to Mr. Alderman Harley; takes the liberty to express to him, as a member of parliament, that he thinks his case has been oppressively considered by the commissioners for American claims, according to circumstances, and as they have done to others, who has been, he believes, a more real acquisition to this country than any party comeing within his knowledge from America, and whose situation and establishment as a merchant in that country has been in a particular manner rooted up and made subservient to the policy of the prohibitory act, in bringing his capital (£20,000) from the general stock of America, and adding to that of this country, as far as it went, and continueing there. Two very fine cedar ships of his were sold at Bristol in '75, and bo't there by his friend who retained the captains on his account in his employment, who otherwise, as *the* were active and enterpriseing men and inclin'd, would have gone to America and taken part with the insurgents; and from their skill and knowledge done much injury, he has reason to believe, to the interest of this country. Another sloop of his was sold in Liverpool, and a fourth vessel, the Ranger, in London, which neated to his acc. not more than £23 15 8; sinking on the cargoe, consisting of flour, considerably more than the freight; had he kept them in port *the* must been seized and destroy'd with the other shipping; employ them he could not as a loyal subject, as this w'd been aiding and abetting the insurgents; sending them, therefore, to sell for what the w'd bring was his only alternative, such being the peculiar hardship of situation. He sees that £60,000 in one instance, and £500,000 in another has just been allowed for unproductive property, sums to arise out of lands to be carried to market for fifty years to come. On this principle why

[*The words within brackets are interlined, and appear to be in Mr. Aspden's handwriting.]

not allow him for the proffits of his trade, which, up to this time, he has not a doubt would have amounted to near of £100,000, as there was not in America a merchant better settled or in a more prosperous way than himself, he believes. He would, therefore, flatter himself when the above comes before parliament, as a matter of justice and right, that some notice might be taken of his case, who has been in a manner ruin'd and drag'd from his connections by the indiscriminate, and he may add, too extensive operation of the prohibitory act, and not when the are going to be generous to others to refuse what may be just to a friend. He could not go to America to obtain any restitution of his right and properties; and is now prevented from making any further use of his time, talents, and capital, by one of the sorest affliction, (an injury in his sight,) which he believes has been principally caused by the trouble he has experienced from the late unhappy dissensions in America.

Mr. A., on his comeing from America in Decem., '76, was introduced to Mr. Harley by Mr. Warder, of Philad., and had the pleasure of dineing and breakfasting with him several times ab't that time, and much conversation on the subject of American affairs.

In America he was ever ready to render to natives of this part of the empire every office of kindness and benevolence; to acts of justice he always thought himself bound; he would, therefore, flatter himself he will not want an advocate in his case, in this respect, in Mr. Harley.

That merchants in the most respectable and lucrative lines of business should be rejected, and allowances made to those call'd professional men, who were in a manner supported by them, as well as there being no amnesty in the treaty, must also strike him as a matter of peculiar hardship, and inviduous.

He will further add, that there is no claimant from Pensylvania that stood there on ground, he believes, of equal responsibility with himself.

His estate was valued by Henry Drinker, Joshua Howell, and Ab'm Liddon, (Quakers,) in '83, at £4,500, and would have sold from '79 to '84 for upwards of £5,000 cur'y.

Say - - - - -	£5,000 0 0
Rents he sh'd have recei'd, had he been a disloyal subject, ab't from '76 to '89 - - - - -	2,000 0 0
	£7,000 0 0
Rent rece'd only - - - - -	13 0 0
	6,987 0 0
He may add loss on vessells and effects - -	3,000 0 0
	£9,987 0 0

Sum allowed £1,184, after being kept six years in suspense—money £1,065 12=curr'cy £1,776 0.

Lower Brook street, No. 17, July 2, '87.

He has, since the delivery of certificate in Nov. last, made a representation to the commissioners on the subject of this claim, but could get no redress.

68.

Memorial of Matthias Aspden to the commissioners of American claims.

To the commissioners appointed by act of parliament, to enquire into the losses and services of the American loyalists, the memorial of Matthias Aspden, formerly of the city of Philad'a, sheweth: That your memorialist presented to the commissioners in Decemb., 1783, a memorial, setting forth the losses he had sustain. in consequence of his loyalty and attachment to his majesty's governm., and was examin'd on the same in the month of Feb'y, 1785. That in the month of June following, your memorialist embark'd for America, under a belief that he was protected by the treaty at least for a year, with a view to try if he could recover any part of his estate; of which he wrote Mr. Foster, for the information of the commissioners, some time before his departure; and if he should succeed, that he *he* would transmit early notice of the same and withdraw his claim.

That your memorialist, on his arrival in Philadelphia, found himself in no shape protected by the treaty; and was induced therefrom to embrace the earliest opportunity of returning to Engl'd. Particulars of which he wrote soon after his arrival to Mr. Foster, and desired to know, as his name was not down in the list for compensation, on what ground the same rested, that he might be prepared with such proofs as were necessary. The answer he received to this was such as he does not know at this moment; he rightly understands, but supposes the commissioners, from the tenour of his examination, or his going to America, had concluded his property would be restored to him, and therefore had not reported his name in the late list for compensation. Your memorialist states that he had little or no expectation of this when he went, but was willing to make the experiment, and take the burthen from this country, if he could; and has now no hope that it will ever be restored [to] him, his house being appropriated to the use of the college, and the plantation, described in his former memorial, absolutely sold on the 29th of April last, for the benefit of the State; notwithstanding a petition on his behalf had been presented to the council, signed by sundry inhabitants of Philad'a, to which they had attend*ed* so far as to remitt the punishment of the law in his case, by their patent of pardon, dated the 18th of April, 1786, but not restore any part of his estate.

That your memorialist had he not been opposed to the revolt, and attach'd to the Government of this country, of course reason to dread some popular madness in his own, it is not reasonable to suppose he would have left America at the early period he did, or come to England. But if the commissioners are not already satisfied on this head,

he thinks the fullest proof can be furnished, if any greater need be required, then haveing on this account been attainted of high treason, his life and estate forfeited, and the latter seized, sold, and appropriated.

That your memorialist, from a conformity to the restraining bill, center'd upwards of £10,000 sterling of his capital in England; and here he thinks it but justice to himself to remark, he gave not only a mark of his confidence, but a pledge of his fidelity, tho' it may be urged that this was doing no more than his doing, but in this he presumes there is a merit, or it may be said on this principle, what has any loyalist done more to entitle him to indemnification? He thinks it further proper to observe, in conforming to this act of duty, in placing so large a share of his property out of hand, that he was on very different ground from those whose properties rested solely in the country, and more directly call'd upon to leave the same, then the were, who avail themselves of the proclamation, issued by Sir Wm. Howe, in fav'r of those who remain'd peaceably on their estates; or the plea held justifiable by the ablest writers on the duties of allegiance, that they were not bound to abandon the same, unless the saw reasonable hope of protection, and therefore on this account, exposed to risks and hardships, a great proportion of his majesties subjects in America were not, and ultimately to losses from the services he could have render'd by comeing in that needed not to have been sustained.

Your memoralist further states, that part of the above mention'd property was made use of to emply two persons that commanded vessells of his in America before the revolt; one he bro't with him to England at some expence; and had not his influence prevail'd, would been gladly retain'd as an acquisition in the country. Mr. Lancelot Cowper, merch't of Bristol, can testify his motive on this occasion, and who had the direction of the vessells the were in, and that he did not gain as much advantag. by the same, as even interest for his money; and that if he had not retain'd them in his service, and given them the employment he did, that it was most probable the must or would have gone to America, from the reluctance there was in England, both to underwrite and to give the command of vessells to natives of that country, to get employment there. Another part of this sum was early invested in the funds, and afterwards the whole of it; and this at a period far from flattering, from a doubt on the minds of many that the continuance of the war would give them an irrecoverable stroke, and which there was some reason to suppose would been, had it not been for the success of Lord Rodney. This your memorialist cannot but think must strike the commissioners as a further confirmation of his attachment to this country, when it may be recollected that had he not been so disposed, he might have gone to France, placed the property mention'd here in the funds of that country, which afforded nearly equal if not quite as much advantage and safety as those of this, and made use of the income from the same, for his support there that he has done

here, and would therefore note that this uniformity and steadiness must add weight to his claim.

Your memorialist further considers it his duty to state to the commissioners, that he cannot but think himself, notwithstanding the remission in Pensylvania of the punishm't of the law in his case, as much entitled to compensation on the principle the same is made, (without mean,) as the Rever'd Mr. Dushe, Mr. James Delancey, Mr. Shoemaker, Mr. Philips, or any other loyalist, particularly those who took the lead in the revolt; and on this account, had nothing to dread from popular phrensey, which those who were opposed to it certainly had.

Your memorialist cannot help expressing it as his opinion, that there are few, if any loyalists, all things taken into consideration, who have made a greater sacrifice in abandoning America than he has done; who unquestionable, as well as settled in business, he believes as any young man on the continent, at the commencement of the revolt, or whose acquisitions these eleven years past, had the peace of the country been happily preserved, would been greater, and whose gains he believes would been still greater, had he swerved from his duty, and remain'd in Philad'a, and taking advantage of the openings that presented during the war, join'd to the very valuable connections he had in islands among the French.

Your memorialist therefore prays the commiss'ers will enquire into the premises, that he may be entitled to such relief under their report, as case as intitles him to.

69.

Additional remarks of Matthias Aspden, to commissioners on American claims.

Mr. Aspden, in addition to the statement he lately presented to the commissioners, desires to submit the following:

1st. From the language express'd in both houses of parliament, (as given out in the papers,) on the case of the loyalists at the time of making the late peace, he conceived it not to be the sense or intention of parliament in making compensation to them, to tye them up or restrict them from going to their former places of residence when *the* chose it, if circumstances would admit; and in this was further confirm'd from the tenor of the bill brot. into parliament, under the authority of which the commissioners act, which he conceives goes much to strengthen this believe, as assistance is promis'd to such as may be able to go back, and there endeavour to recover their rights and property under the treaty.

2dly. From the wording of the 5th article of the peace, which recommend the case of real Brittish subjects, then of others resident in districts, &c., within the possess. of his majesty's arms, he conceived the loyalists where acknowledged and deem'd citizens and subjects of the United States, and their condition blended with those who were in America when the same was declar'd out of the protection of the coun-

try, and had remain'd there; and were by this act, the treaty of peace, and the act which confirm'd the same, made and deem'd aliens and foreigners; and could have no more right de facto to purchase and hold lands to their use, or ships under the navigation act, than other foreigners and aliens.

3dly. From the foregoing considerations, when ask'd by the commissioners in his examination whether he intended to return to Ameririca and live there, he was led to answer in the affirmative, that he did; nor could he conceive from fair answer to a question that might have a drift, he was saying any thing that not be makeing out his loyalty to the satisfaction of the commissioners; if he was, he trust from the ground here mention'd, which led him to it, the little security there is in the ipse dixit of parties saying the contrary, the will not suffer this to weight with them in not allowing him that compensation on his claim he thinks he is justly entitled too.

4th. That had he known, (of which he took all the steps he could to learn,) his real situation in Pennsy. under the treaty, he should not, nor would not, have given this answer to this question * * * * that since his return from his perilous voyage to America, he has consulted concil, Mr. Douglass, of Lincoln's Inn, on the subject of the second article in this paper, and learns from the same that he, in his opinion, has every right under the law, with other British subjects, notwithstanding the predicament he was placed in with all the inhabitants of America, by the prohibitory act, treaty of peace, &c.; he further adds, that since he has had this opinion, it has been and is serious wish and inclination to settle and fix in this country.

70.

Certificates of certain persons respecting Matthias Aspden.

BRISTOL, 17 *Febr'y*, 1787.

To the COMMISSIONERS FOR AMERICAN CLAIMS.

GENTLEMEN: In the case of Mr. Matthias Aspden, formerly a considerable and much respected merchant in Phila., where his property, to a large amount, in houses, wharfs, &c., has seized and confiscated, as I understand, solely on account of Mr. Aspden's loyalty to our King, &c. A general correspondence with Mr. Aspden since the year 1774, together with full information from Americans of character now in England, I am convinced that his best endeavors were exerted to oppose the violent measures adopted by the enemies of this country during his continuance in America, and since he left it. A while before Mr. Aspden consigned to me two pretty expensive ships, which were his own, and fitted out at Philadelphia, under no better prospects than employment when here than bare freights whenever any offer'd. As both vessels became yearly of less value, and did not earn beyond their general expenses, I wondered why Mr. Aspden should send them to England under such prospects, untill I knew his chief motive was to

give employment to the commanders, mates, &c., whom he had a friendship for, and wished them not to act again Great Britain. To sell these ships at the time I recommended Mr. Aspden refused, on the principle of continuing in employment said command'rs and mates, especially as all of them were Americans, strong, and not likely to procure berths in similar stations here, or in any other port in England that I knew off. These matters I thought necessary to mention to you, as also Mr. Aspden kept the two ships employ'd untill one was taken by an American privateer, and other cast away on a voyage to Quebec, near Newfoundland, afterwards.

I am, gentl'n.

I do certify, that Mr. Matthias Aspden, of Philadelphia, came to Maryland a loyal subject, attached to the Brittish Government, in the month of June, 1776, to get a passage to England in the vessell appointed to take Sir Rob. Eden, to whom he bro't letters of recommendation. Mr. Aspden would have accompanied Sir Rob't, had not the convention at Anapolis, from some supposed breach of the truce, forbid all intercourse between his majesty's ship the Fowey and the shore, soon after Sir Rob. got on board, by which sudden and unexpected interruption Mr. Aspden was prevented from embarking.

ROB. SMITH.

16th Feb'y, 1787.

PHILADELPHIA, *Sept.* 17, 1776.

DEAR BROTHER: The intent of this letter is to introduce to thy acquaintance my friend Matthias Aspden; I therefore take the liberty to recomend him as a person of probity and fortune, not in the least doubting thou'lt contribute what may be in thy power to render his stay in London as agreeable as possible.

His knowledge of the situation of public affairs will enable him to give thee a perfect state of them.

Thy family and relations are well.

I subscribe myself thy affect. brother,

THOS. WHARTON.

To Samuel Wharton, esq., London.

I do hereby certify, that, haveing received from undoubted authority the character of Mr. Matthias Aspden being a loyal subject, I introduced him to Lord Geo. Germain, then Secretary of State for the American department, at his lordship's desire, and was present at the whole of a long conversation, in which Mr. Aspden gave his lordship much information, and the clearest proof of his attachment to the British Government. December, 1776.

London, Feb. 22, 1787. JOHN NUTT.

I do certify, that I was personally acquainted with Mr. Matthias Aspden, of Philada., from his earliest youth, and that at the commencement of the late unhappy dissensions in America, and since the same.

I always considered and believed him to be strictly loyal, and attached to the Brittish Government. J. DUCHÉ.

Asylum, Feb'y 26, 1887.

I do hereby certify, that I have always understood that Mr. Matthias Aspden was, at the commencement of the late unhappy dissensions in America, attach'd in principle to the British Government, and totally averse to the revolution which has succeeded; and that I verily believe his mustering a few times with a company in Philada. arose from an apprehension that he would otherwise been injured in his person by the insurgents, and that such mustering was not voluntary, but compulsive. J. GALLOWAY.

Oxford street, (161,) Feby 16, 1787.

I do certify, that I was personally acquainted with Mr. Matthias Aspden, of Philadelphia, a great number of years before the late unhappy dissensions in America; and notwithstanding his going out to exercise a short time with the people of his ward, I have every reason to think, and do believe, he was loyal, and attached to the Brittish Government. THO. YORKE.

Tunfield, No. 70. Feb'y 26, 1787.

I do certify, that I was personally acquainted with Matthias Aspden, esq., late of Philad'a, merch't, many [years] before the rebellion in North America; and that his conduct at the commencement evinced strict loyalty to his sovereign, and attachment to the Brittish Government; and I believe entirely declined an extensive and advantageous trade, that he might not in that, or any other way, aid or abet the revolt; and from the insult and ill-treatment he had to apprehend from the insurgents, was induced to leave the country, and come to England in 1776. ENOCH STORY.

London, Feb'y 22, 1787. No. 38, Tower Hill.

I do hereby certify, that I was personally acquainted with Mr. Matths. Aspden in Philadelphia, several years before the commencement of the late unhappy disturbances in America; and that I always considered and believed him to be loyal, and attached to the Brittish Government, and that I believe his going out to exercise with the ward company in which he served some time in the year 1775, a measure that a great part of the inhabitants were obliged to fall in with, was not voluntary, but done to avoid the resentment of the mob, which otherwise might have fallen upon him.

DAVID SPROAT

London, Feb'y 24, 1787.

71.

Petition of Matthias Aspden to the House of Commons.

To the right honorable the Commons of Great Britain in parliament assembled:

The petition of Matthias Aspden, an American, sufferer, formerly of the city of Philadelphia, merchant, sheweth:

That your petitioner is a native of North America, and the only son of Matthias Aspden, a native of England, born in Lancashire in the year 1690, and went about the year 1718 and settled in Philadelphia, in North America, where, after some years of industry in the business to which he was brought up, he acquired property with credit, and became, about the year 1730, a considerable merchant in that city, well known in England and the southern parts of Europe, and equally respected for his probity and punctuality in the discharge of his engagements; that in the further course of his business he acquired a considerable fortune, which on his decease, in the year 1765, was left to him and a daughter by a former wife, now resident in America. The personal part coming to him was placed out to interest on mortgage in Pensylvania, and with the income of his real estate, and that on money left him in the funds in England, produced him, in that country, a very handsome and genteel support.

That your petitioner, from instructions received from his father, and his own observations, added to some speculations during his minority, acquired a knowledge of the general principles and grounds of commerce, and preferring a life of usefulness to that of inaction and retirement, was induced, on the ground of the security of the local government he was living under, and the rights of a British subject, soon after his coming of age, in the year 1770, or, as he has since learn'd, before he became of age, to embark in the maritime commerce carried on and admitted in the colonies.

That your petitioner from employing his capital in that line of business was early led to a knowledge of the relation in which the colonies stood to Great Britain, the footing the navigation act was on, and of the disposition that took place in England on the peace of 1762, to retain that controlling power in the head of the State over the same, necessary to give compliance to that act, secure the dependance, connect the parts together, and call forth the strength of the same for the general welfare, as circumstances and exigencies might require.

That your petitioner, satisfied therewith, was sincerely desirous that the inhabitants of the colonies, as citizens and faithful subjects, would meet the sense of their brethren in England in their ideas in that respect, and as one people, by suitable acts and regulations, keep under one head. To that effect his sentiments were frequently expressed and endeavors used that the same might take place as far as in his power or influence extended. No merchant in Philadelphia, he believes, was paying duties at the custom house to a larger amount than he was during the time he was in business; or were there any, he believes, from the general tenor of their conduct, that possessed more of the confidence of the collector and comptroller there than he did, or were more respected by them.

That your petitioner, on the breaking out of the late unhappy dissen-

sions in America, was uniformly, as here stated, attached to the British Government, and in compliance with the act (since repealed) of the 16th of his present majesty for reducing the insurgents to the obedience of his majesty's Government, manifested a most faithful and loyal disposition by giving up and relinquishing (when many were doing otherwise) a beneficial and extensive commerce that would have produced him, he has good ground for believing, according to the profits he had been in the receipt of, near one hundred thousand pounds currency to this time; and full as much or more so, he has reason to believe, if he had adhered to and taken part with the insurgents, from the many local advantages he possessed and could have availed himself of; in fact, he thinks he may add, and be justified, that the country would not admit of a person being better settled in it in the regular course of things than he was, or is there any from Pensylvania that has been attainted of high treason for their attachment and adherence to the British Government, considered in that State, he has understood, more a public loss than himself, from the useful manner in which his capital had been and might be expected would be, employed; and none he believes, as may be inferred from this and other matters here stated, that is or has been more a real acquisition to this country than he has been.

That your petitioner, in compliance with the act aforesaid, sent his vessels to England to be sold, (employed if permitted) or laid up, as his correspondents might judge best, as they could not remain in any American port, such being the singular hardship and invid*u*ous situation of the merchants in America concerned in vessels under the same. In consequence thereof, two very fine cedar and live oak ships of his were sold at Bristol, and bought there by his friend, who retained the captains in his employment on his account—active, enterprising, and useful men—that they might not, as they were inclined, return and take part with the insurgents, and be instruments in their hands of doing to the interest of this country much injury, as there was reason to believe they would and could, from their skill and knowledge. A third ship was sold some little time before at Liverpool; and the keel of a fourth, laid to replace her, burnt, he has been informed, with other vessels on the stocks at the evacuation of Philadelphia; money advanced the builder having on that account not been repaid; and a fifth vessel sold of his under the act in the port of London, and though a strong and sound vessell, neated no more to the credit of his account than £23 15s. 8d., sinking on the cargo, consisting of flour, considerably more than the freight; such being the grievous and singular manner in which he was suffering by a compliance with the act aforesaid.

That your petitioner, in compliance with the act aforesaid, continued his capital to the amount of between fifteen and twenty thousand pounds currency in England, arising from the sale of his vessels and cargoes laden on board the same, thereby taking that sum from the general stock of America, and adding it to that of this country, which, as far as it went, must [have] been beneficial to the same, and in pro-

portion distressing, or more so, to the insurgents, and manifested in the same—from the support he was giving by that act alone, independent of his investing it, or a considerable part thereof, in the public funds, at a time when the national exigences stood much in need of pecuniary aid—a faithful and truly loyal disposition.

That your petitioner, from this compliance with the act aforesaid, and uniform attachment to the British Government, was considered by the insurgents as exceedingly inimical, and opposed to their views and measures, as will appear evident to the sense of the house, he cannot doubt, from the facts here stated, (if not alone from the public act under which his estate was taken away,) and compelled him, from the dread of molestation he was living in on that account, having been disarmed, added to his having given up and relinquished the means of support in that country, by a compliance with the act aforesaid, if so much should have been required of any subject or subjects, while confined lawful commerce and means of support, to a temporary abandonment, as he confided of his native land and come to England, which he did on the 18th September, 1776, in an unarmed vessel, solely fitted out to give the captain, a native of Scotland, support, who had a large family to maintain, and was loyally disposed. This vessel bound to Corrunna, in Spain, your petitioner would have considered, from its small size and single deck, a very unsafe vessel to have crossed the Atlantic in, and what he by no means would have done at any other time, and under any other circumstances, which he conceived in the present he was at liberty, and had a right to do, in that way from the causes here stated, and perfectly justified in the same, from that clause in the prohibitory act which directs that the mariners taken on board American vessels should be entered in the books of the King's ships that might take them, be entitled to wages and benefit of prize money in common with other seamen; and the passengers taken on board such vessel, with the captain, be set at liberty on shore in the first port of his majesty's dominions they arrived at, his being loyally disposed, and having done no act to forfeit his allegiance, and which clause both justice and humanity led him and others, who availed themselves thereof to believe, was intended by the legislature with a view to let parties circumstanced like him, or in his situation, to leave America and flee from persecution.

That your petitioner intended to have left America from the causes here mentioned, and come to England before the time limited for vessels, free of capture, to leave America in a ship of his, which sailed for Bristol in Sept'r, 1775, and also in March, 1776, in the Swallow packet from New York, and likewise with Sir Robert Eden, late governor of Maryland, in the mouth of June following, but was prevented in the first instance from the distress the circle of his friends in Philadelphia were thrown into, from the carting about the streets by the mob, two citizens of credit, one in the ***, respectably connected, now in England in the church, and the other a physician of eminence and reputation, since dead, (Doctor Kearsely,) whom, from hints heard, he

had advised to be on his guard, and afterwards in his distress visited, intended to take vengeance on them for their zeal and loyalty, and with a political view to overawe and crush the influence of that body in the city opposed to the measures of the insurgents, principally the property of the country, which had that effect, and from the distress that was caused thereby, not knowing whose turn it might be next to be treated in that cruel and ignominous manner. He could not overcome his struggles to leave them at such a time, when his stay, from the weight he had possessed, and respectable light in which he had been considered, from his useful pursuits and upright conduct, might be of succour and comfort to them notwithstanding the considerations of personal safety that were then urging him to it, and the preparations that had been made for his passage to England in the vessel mentioned. In the other instances, it arose from causes not of such importance to trouble the house with, but in effect have been exceedingly injurious to him.

That your petitioner, very soon after his arrival in England on the 2nd December, 1776, was introduced to Lord George Germain, the late Lord Sackville, deceased, then one of his majesty's principal Secretaries of State, by a respectable merchant in the city, with whom he had a long, and, as it appeared to him, a very satisfactory conversation to his lordship.

That your petitioner has derived his support entirely out of the property sent to England in the manner stated, without ever having had any pension or salary allowing by Government, and not the case, he believes, with any other sufferers in rights and estate besides from America; and from holding to the Government as stated, and making the same his constant residence in England, was called upon by proclamations originating, he believes, in this country, in the month of July, 1779, by name, with others, to render himself to one of the judges of the supreme court, on or before the first of April, 1780, to take his legal tryal for having knowingly and willingly aided and abetted the enemies of that State and the United States, (by joining the British army in America, which he did not as this petitioner shews,) under the pains and penalties of high treation; that your petitioner refused to pay any regard to this proclamation of the usurped Government, and also to render himself, on the time of appearance being extended to him and one other named in the proclamation, by act of assembly, from the first of April to the first of January following, incurred the same; conceiving that in him, who had early and uniformly attached himself to the British Government, it would be setting a bad example, contrary to the allegiance he was owing to his majesty; and from the further confidence he had, that when the then subsisting dissentions should cease, either by the colonies being restored to the peace of the king, or by an agreement to their independancy, that an amnesty, from the justice and humanity of the same, and the precedent of Spain in the case of the low countries in Philip the Second time, would be secured by treaty to the person of the meritorious American sufferer, and a restitution of property, either in money or kind, that had been confiscated;

that there were neither of them your petitioner has much cause to mourn, and believes the case to be unparalleled in the annals of history, and, on the same account, reason to lament that he did not venture to avail himself of the time extended to him in that act, as the other party mentioned did, who was discharged the court without a prosecution against him, and is now in possession of estate there, and of all the rights of citizenship, and every family and domestic comfort.

That your petitioner having incurred the confiscation of his estate left him under the will of his father, from holding in the manner here stated to his allegiance, part very soon after being alienated to the college at Philadelphia, and the other part in the hands of commissioners for confiscated estates, who were in the receipt of the rents and profits of the same, presented to the commissioners for American claims, in or about the fifteenth day [of] December, 1783, a memorial on the subject of his claim, with an authenticated valuation of his estate, dated November 10th, 1783, made by three judicious persons of the society of Friends (or people called Quakers) in Philadelphia, of property and unquestionable probity, and would have sold, according to account sent to him at that time, and a considerable time before and after, for more than the valuation.

That your petitioner, on or about the 23rd of February, 1785, was examined on the subject of his claim; and had the case admitted that the commissioners could have been what he should have desired, of the vicinage, his examination he believes would have been very short, and much pain spared him, and also suffering, from what he conceives to be an unjustifiable state of suspence that he has been kept in for several years, both hurtful and detrimental to him (to whom individually he may say it would have been better if there had been no commission of enquiry,) with respect to the pur**t of their report on his case, no payment being directed on his claim in course at the treasury, or any reason assigned him why it was not; and he may further add, humiliation touching the same, from the smallness of the sum and fund out of which the nation were paying the claims of the American sufferers.

That your petitioner, under a belief that he was protected in Pensylvania by the 5th article of the treaty, for a year, and that his person, from letters received, would be in safety from the mob, went in June, 1785, in the packet from Falmouth to New York, being farther urged thereto from an observation made on his examination that might have been spared if they had known his character; and not knowing how far the belief of it might have been impressed on the minds of the commissioners, (to wit,) that he might have it in contemplation to get a compensation for his estate here, and then go and get restitution for the same in America; to which he replied, "I mean no collusion, and know of none." Your petitioner accordingly wrote to the commissioners of his going to America previously thereto, and of the ground of his going, and that if he should get his estate restored to him, (if that were probable, or even possible, the whole of it as it was circumstanced,) he would give them the earliest notice, and withdraw the claim he had

made for the same, it not being his intention, if restitution was made him there, to get compensation here. On his arrival in Philadelphia he waited on the president, Mr. Dickinson, with the Rev. Dr. White, the present bishop of the Episcopal church, and also on the chief judge, Mr. McKean, to acquaint them that he had come there under the fifth article of the treaty, to endeavor to obtain restitution of his rights and estate, and if he did not succeed, would be allowed to return, he trusted, unmolested; though nothing was said to him by either, that he was in no protection under the same, he cannot say his reception was cordial, or scarcely barely civil; this joined to an alteration in the behavior of many, and his being told with earnestness by a person of weight that it was an insult to the Government he should be seen publicly walking the streets, and that it was the duty of the same to take him up, and hang him or pardon him, gave much alarm to your petitioner, and led him to go to council with his case in writing, and a gentleman with him, for his opinion of his situation under the treaty, who informed him, very much to his astonishment that he was **nsidered by the court to have no protection in that State under the same, adding, as a matter of information, he thought fair to give him, that he knew the judges had it impressed on their minds, as their duty, to bring that question of protection under the treaty to issue, (for so from this it appears it must been understood abroad,) and that a writ was issued, or about to issue, to take the body of a person in the predicament he had described the party in his case.

That your petitioner, upon this advice and information, withdrew the same day into the State of Jersey, where he again consulted council, who gave it to him, as his opinion, that he was not in safety there, and that the Governor, as bound by one of the articles of the Union, would deliver him up, should the State of Pennsylvania demand him. In this distressing situation which he had been led into from the silence of the house of assembly of Pennsylvania, on the article of the treaty recommended to them, persons being there in his situation unmolested, the tenor of his friend's letter on that head, and concurring testimony of others from that State, who, from the opportunity they had, he deemed must know that protection for a year was allowed. Your petitioner determined to avail himself of the first opportunity, if permitted, to leave America and come to England, which he did on the 13th August, 1785, in a vessel from New York, bound to London; and, on his arrival, wrote to the commissioners the particulars here stated of his voyage to America, and desired to know, as a report had been made to the treasury and payment made there on claims examined subsequent to his, and none directed there to be made to him, whether the same had arose from any want of proof of loyalty, confiscation of his property, or value of the same, that he might bring further, if any greater or further, proof could be given or required, he may here add by unprejudiced and sober minds, on the ground or principle on which compensation was making, than the confiscation of his estate under a public act, and valuation of the same under an authentication the best the case would admit of, and

such as would be proof in any court of law or equity in the kingdom, and less than t** same would have sold for at the time, and before and after, notwithstand**g what he said, that the same, he believed, would sell for at public sale before the late dissentions in that country; and such as has been assented to in the case of William Austin, whose estate lay within less than five hundred yards of his, and in the cases he has understood of others; to this your petitioner received the following answer: "That the commissioners had reported on Mr. Aspden's case, and cannot communicate the particulars of their determination to the parties; no further proofs are required of Mr. Aspden;" leaving him in the same, still on the wrack of suspence, and more inclined to conclude than otherwise that they had rejected his claim, notwithstanding he conceived he had reason to consider it the first in point of merit before the board from Pennsylvania, and so he believes would the commissioners had they been of vicinage.

That your petitioner, at a loss to conceive how this could be the case, unless from the answer he gave to the following extraordinary question, put to him twice, and not generally asked, he understands—"did he intend to go and live in America?" to which he replied in the affirmative that he did, conceiving, as may be reasonably supposed, that there must be some degree of locality in the attachment of every loyalist to the British Government, who were under the ties of birth, bread, relations, and connections as was his case, and so conceives understood; and that it was not the sense or intention of parliament, or nation at large, to restrict parties from consulting their happiness in that respect when they might be at liberty, nor contrary to the act expressed or implied, on the ground or principle on which compensation to sufferers was making, and therefore led from this, it being in mind his intention to go to America and stay if permitted, to give the answer he did.

That your petitioner, fully satisfied of these facts, and further sensible that the comm***oners had not from the public act under which his estate had been * * en away, the ground on which the bill of enquiry passed parliament, nor from the letter or spirit of the same, any right to reject his claim, unless fraudulent, which he was conscious it was not, but, as the case stood, was laying under the imputation of it, a circumstance too grievous not to affect him sensibly, who had always maintained a character of the strictest probity, and led him from a desire to vindicate the same in that respect more than any other consideration, on there being another payment directed to be made to American sufferers at the Treasury, and none to him, to present another memorial on his case to the board, and requested that the same might be reconsidered, as he concluded his claim had been erroneously and unjustly rejected; to which he received the following answer: "That the commissioners had reported on Mr. Aspden's case to the lords of the treasury and secretaries of State, and cannot go on the subject of his second memorial;" final as the report of the commissioners appeared to be from that and their former answer, and ambiguous silence with respect to the purport of the same, your petitioner's mind

made for the same, it not being his intention, if restitution was made him there, to get compensation here. On his arrival in Philadelphia he waited on the president, Mr. Dickinson, with the Rev. Dr. White, the present bishop of the Episcopal church, and also on the chief judge, Mr. McKean, to acquaint them that he had come there under the fifth article of the treaty, to endeavor to obtain restitution of his rights and estate, and if he did not succeed, would be allowed to return, he trusted, unmolested; though nothing was said to him by either, that he was in no protection under the same, he cannot say his reception was cordial, or scarcely barely civil; this joined to an alteration in the behavior of many, and his being told with earnestness by a person of weight that it was an insult to the Government he should be seen publicly walking the streets, and that it was the duty of the same to take him up, and hang him or pardon him, gave much alarm to your petitioner, and led him to go to council with his case in writing, and a gentleman with him, for his opinion of his situation under the treaty, who informed him, very much to his astonishment that he was **nsidered by the court to have no protection in that State under the same, adding, as a matter of information, he thought fair to give him, that he knew the judges had it impressed on their minds, as their duty, to bring that question of protection under the treaty to issue, (for so from this it appears it must been understood abroad,) and that a writ was issued, or about to issue, to take the body of a person in the predicament he had described the party in his case.

That your petitioner, upon this advice and information, withdrew the same day into the State of Jersey, where he again consulted council, who gave it to him, as his opinion, that he was not in safety there, and that the Governor, as bound by one of the articles of the Union, would deliver him up, should the State of Pennsylvania demand him. In this distressing situation which he had been led into from the silence of the house of assembly of Pennsylvania, on the article of the treaty recommended to them, persons being there in his situation unmolested, the tenor of his friend's letter on that head, and concurring testimony of others from that State, who, from the opportunity they had, he deemed must know that protection for a year was allowed. Your petitioner determined to avail himself of the first opportunity, if permitted, to leave America and come to England, which he did on the 13th August, 1785, in a vessel from New York, bound to London; and, on his arrival, wrote to the commissioners the particulars here stated of his voyage to America, and desired to know, as a report had been made to the treasury and payment made there on claims examined subsequent to his, and none directed there to be made to him, whether the same had arose from any want of proof of loyalty, confiscation of his property, or value of the same, that he might bring further, if any greater or further, proof could be given or required, he may here add by unprejudiced and sober minds, on the ground or principle on which compensation was making, than the confiscation of his estate under a public act, and valuation of the same under an authentication the best the case would admit of, and

such as would be proof in any court of law or equity in the kingdom, and less than t** same would have sold for at the time, and before and after, notwithstand**g what he said, that the same, he believed, would sell for at public sale before the late dissentions in that country; and such as has been assented to in the case of William Austin, whose estate lay within less than five hundred yards of his, and in the cases he has understood of others; to this your petitioner received the following answer: "That the commissioners had reported on Mr. Aspden's case, and cannot communicate the particulars of their determination to the parties; no further proofs are required of Mr. Aspden;" leaving him in the same, still on the wrack of suspence, and more inclined to conclude than otherwise that they had rejected his claim, notwithstanding he conceived he had reason to consider it the first in point of merit before the board from Pennsylvania, and so he believes would the commissioners had they been of vicinage.

That your petitioner, at a loss to conceive how this could be the case, unless from the answer he gave to the following extraordinary question, put to him twice, and not generally asked, he understands—"did he intend to go and live in America?" to which he replied in the affirmative that he did, conceiving, as may be reasonably supposed, that there must be some degree of locality in the attachment of every loyalist to the British Government, who were under the ties of birth, bread, relations, and connections as was his case, and so conceives understood; and that it was not the sense or intention of parliament, or nation at large, to restrict parties from consulting their happiness in that respect when they might be at liberty, nor contrary to the act expressed or implied, on the ground or principle on which compensation to sufferers was making, and therefore led from this, it being in mind his intention to go to America and stay if permitted, to give the answer he did.

That your petitioner, fully satisfied of these facts, and further sensible that the comm***oners had not from the public act under which his estate had been * * en away, the ground on which the bill of enquiry passed parliament, nor from the letter or spirit of the same, any right to reject his claim, unless fraudulent, which he was conscious it was not, but, as the case stood, was laying under the imputation of it, a circumstance too grievous not to affect him sensibly, who had always maintained a character of the strictest probity, and led him from a desire to vindicate the same in that respect more than any other consideration, on there being another payment directed to be made to American sufferers at the Treasury, and none to him, to present another memorial on his case to the board, and requested that the same might be reconsidered, as he concluded his claim had been erroneously and unjustly rejected; to which he received the following answer: "That the commissioners had reported on Mr. Aspden's case to the lords of the treasury and secretaries of State, and cannot go on the subject of his second memorial;" final as the report of the commissioners appeared to be from that and their former answer, and ambiguous silence with respect to the purport of the same, your petitioner's mind

was not at rest under the imputation of fraud he must suppose himself to lay from that circumstance, and what has been here stated; and accordingly presented to the lords of the treasury a memorial on his case, praying that the same might be referred by their lordships to the commissioners for reconsideration, as has been done he understood in some instances, or as matter of humanity that he might be informed how he stood under the report, that he might either be satisfied therewith or take measures accordingly: this memorial, he is sorry to say, was returned him with a verbal answer that their lordships could not do any thing in the matter, and kept him waiting on in the same state of painful suspense, notwithstanding his estate being absolutely gone from him forever, he believed, part being alienated, which, from its pressure, led him again to present another statement, and to write to the board on the subject of his claim, to which he got no answer, he considered favorable until April * *, when he received the following letter: "That the commissioners had received further information on his case, and would report their opinion on the same." This your petitioner learnt soon after he went to allow his claim, and that the same had been reported on under the third class—which, as it relieved his mind from the pressure of between five and six years of the most painful suspense, and removed from his character the imputation of fraud he was supposing himself to lay under, gave him in that respect, he may truly say, much satisfaction—not that he considered the sum he understood allowed as an equivalent for his losses, sufferings, and he may add, services, and which a friend in Philadelphia writes him in confirmation, to whom he had mentioned the same in a letter, and who knew his situation and how others were circumstanced, and had been considered, that it was grossly inadequate.

That your petitioner in the month of , 1788, received at the office of American claims a certificate for eleven hundred and eighty-four pounds sterling, deducting, he supposes, a balance of about two hundred pounds sterling he gave the commissioners, on account he owed Mr. Ab'm Leddon, of Philadelphia, on a bond given him for £1,000 curr'cy, for money wanted in the course of business, and on which £718 had been paid in April, 1776, and the interest up to July or August, 1775; the whole of this money would been paid had the party not been averse to taking it, proposing not to require interest until he should want the same; and is not clear notwithstanding Mr. Leddon has recovered again his estate in America, from what he has wrote him, that he will do justice in his case, that he may not have to pay the principal in part over again should the certificates he has received for the same in America, worth about 5s. or 6s. in the pound, not be discharged in full; and from the preference he gave in seeking relief there to sending his bond to England, which, if he had, he would have paid, had he given him to understand the money was wanted by him. The sum here allowed is for an estate valued, as stated for * * * £4,500 curr'cy, exchange 66⅔rds.=£2,700 sterling, and would have sold * * the time he was advised, from good authority, for £5,000

currency or upwards, or £3,000 sterling, and not more than equal to the rents, he has ground for believing, he should have received for the same had he not been prevented by the attainder of his person.

That your petitioner, happy and prospering in the most useful manner in his own native land, and content with the advantages and local honors of a subject in the colonies in that division of the empire in which it was his lot to be settled and established, had no intention of leaving the same and coming to England, nor never should have had, he believes, had he not been led and compelled so to do under the circumstances he was, this being a truth well known and believed by those who missed him, and the circle of his friends in general; and in consequence of his going at much hazard to obtain a restitution of his rights and estate to America, they were led to present, in Jan'ry, 1786, a petition to the executive council of the State of Pennsylvania, signed by many inhabitants of that State, setting forth as the ground of the same his early going to England, the peculiar manner in which he was circumstanced with respect to property there; his having conducted himself during the late war inoffensively, (as they have been pleased to term it,) no act of malignity being alledged against him—and praying a remission of the forfeiture of his life, and restoration to the privileges of a freeman of that commonwealth, which the council complied with, (being the first instance, he believes, in the case of a person attainted,) and granted a charter of remission on the 10th April, 1786, signed by the vice president, (who had been in his employ for several years to much advantage to himself, and raised by him to the first regular command of a ship, such being the changes made by the late dissentions,) directing about the time, notwithstanding the charter of remission granted, that a plantation, the remaining unalienated part of his estate, should be sold, which was accordingly done soon after at public sale, and the money arising the * * * applied to the use of the State.

That your petitioner since the receipt of his certificate, on hearing of the large sums allowed by the commissioners to many of the American sufferers, and of their losses, in one instance £30,000 or near it, of whom a brief sent over for council's opinion states, which he has seen, "that it is admitted his estate might sell for as much as would pay his debts;" in others, were less than half the sum allowed, he has understood would have been ample compensation; and claims allowed in the case of others, as far as £500,000, unattainted in their persons, their private and local estates remaining to them, and to whom £130,000 sterling compensation had been allowed in America for losses, with interest thereon—and this sum of £500,000 for an unproductive property, to arise out of lands to be carried to market for fifty years to come, if the accidental circumstance of industry and population should make one; the principal in this case applying to the sum his capital and industry would produced him in thirty years; and also of the allowances to professional men; presented another statement to the commissioners on the subject of his claim, setting forth that he conceived his case had been oppressively considered according to

circumstances, and as the commissioners had done to others, and that the sum allowed in his case was far short of an indemnification, much less a compensation for his losses, services he may add, and sufferings; having experienced a partial loss of sight, from various causes of trouble and vexation, and under such further apprehension on that head, as to have induced him to give up going into any kind of business for the further improvement of his circumstances, and to request a further consideration might be had to it, to which as no answer was sent to him, and as nothing further has been allowed, he concludes has not been done.

That * * * petitioner conceives in the allowance that has been made for professional losses to men called professional men, and none to the merchant and to others equally or more grievously injured in their rights—most of the former from Pensylvania having been promoters of those dissensions in America which has been the cause of his losses and sufferings, and in security on that account from the mob, when himself and others opposed to the measures of the insurgents, were in danger from the same—and who, in comparison with him, stood on no ground of responsibility; neither did they by a compliance with any act, give up a solid establishment, and relinquish the means of support in that country, as he did; or were they compelled on that account, and early attachment to the British Government, to come to England and leave their native land as he was; he therefore cannot but consider the distinction here made between the professional men and those he has mentioned, equally injured, or more in their rights—a distinction made without a difference, not warranted by the act under which the commissioners set, nor agreeable he believes to the sense of parliament in the case or nation; and as it is felt, so it is considered by him to be oppressive and degrading.

Your petitioner, therefore, on the ground and from the causes here stated, has been led to present this petition to parliament, and prays that the house will be pleased to take his case into consideration; and from his faithful compliance with the act, for reducing the insurgents to the obedience of his majesty's Government; the service the State derived, (as far as it went,) from his continuing his capital in England; his keeping active and useful men in employ in England, to the benefit of the State and nation, who otherwise he believes would have gone and joined the insurgents in America, and been employed by them, much to the injury of the interest of the same; and his being compelled, on the account mentioned, to leave his native land, solid establishment, valuable connections, and * beneficial and extensive commerce that would have yielded him, he believes, to this time near £100,000 currency; and from the hurtful and injurious suspence he has been kept in so many years, with respect to his small claim, to whom an amnesty alone in the treaty would have been of the first importance; and also from the liberal manner in which others have been considered, and he believes will be considered from the amount of the claim allowed, (and who have experienced a forbearance in America denied to

him and others,)—and that this honorable house will be pleased to do by him as hath been done by others, and will be done to these, and allow him such further redress in the premises as the house in their wisdom may think him entitled to.

And your petitioner shall forever pray, &c.

72.

Statement of claims of American loyalists.

(A printed paper.)

A statement of the claims examined by the commissioners for enquiring into the losses and services of the American loyalists, with the amount and the sums reported by them to be due to each class up to the 5th April, 1788, pursuant to an order of the honorable House of Commons, dated 28th May, 1788.

Classes.		Number of claims.	Sums allowed for losses of	
			Property.	Income.
			£	£
No. 1	Loyalists who have rendered services to Great Britain.....	204	596,092	25,085
2	Ditto who bore arms in the service of Great Britain.....	481	254,988	6,503
3	Ditto zealous and uniform.....	626	590,424	38,871
4	Ditto British subjects, resident in Great Britain.....	20	89,371	1,070
5	Ditto who took oaths to the American States, but afterwards joined the British.....	27	35,046	280
6	Ditto who bore arms for the American States, but afterwards joined the British.....	23	22,853	2,725
7	Ditto sustaining losses under the prohibitory act..... 19 N. B.—Of the above number 16 are included in other cases 16	3	13,971	
8	Loyal British proprietors.....	2	258,254	
9	Ditto now subjects or settled inhabitants of the United States, some of whom are persons of great merit, and have met with peculiar hardships	25	26,549	970
	Claims disallowed and withdrawn.			
10	1st Disallowed for want of proof of loyalty..... 7 2nd —— for want of satisfactory proof of loss..... .... 250 3rd —— being fraudulent..... 12 4th —— being for debts only..... 10 5th withdrawn..... 34	313		
	Total.....	1,724	£1,887,548	£75,504

Classes.		Number of claims.	Sums allowed for losses of	
			Property.	Income.
			£ s.	£
11	Loyal British subjects who appear to have relief for them by the treaty of peace, but state the utter impossibility of procuring it.....	4	45,363 00	—
	The probable amount of such further claims as remain to be examined, and of such as are not finally liquidated (including an estimate of the reports expected from the commissioners in Canada,) may be estimated at.....	—	300,000 00	—
	The sum which has already been paid towards compensation of the losses liquidated up to the 1st May, 1787, is	—	454,260 19	—

Office of American claims, May 30, 1788.

(Sign'd,) JOHN FOSTER.

Extracts from the votes of the house of commons.

Lunæ, 9° Die Junii, 1788.

"Mr. Gilbert (according to order) reported from the committee of the whole house, to whom it was referred to consider the statement of claims examined by the commissioners appointed to enquire into the losses and services of the American loyalists, with the amount of the sums reported by them to be due to each class, and also the estimate of the probable amount of such further claims as remain to be examined; and also of the statement of the number and amount of East Florida claims received, the number and amount of liquidated claims, and the sum at which they have been liquidated by the commissioners appointed to enquire into the losses of all persons who have suffered in their properties in consequence of the cession of the province of East Florida to the King of Spain, made up to May 30th, 1788, the resolutions which the committee had directed him to report to the house; which he read in his place, and afterwards delivered in at the table, where the same were read and agreed to by the house; and are as followeth, viz:

Resolved,

"That provisions be made for satisfying the claims of the several persons who have suffered in their rights, properties, and possessions in consequence of their loyalty to his majesty, and attachment to the British Government, during the late unhappy dissensions in America, amounting to the sum of one million two hundred and twenty-eight thousand two hundred and thirty-nine pounds.

Resolved,

" That all persons who have suffered in their rights and properties during the late unhappy dissention in America, in consequence of their

loyalty to his majesty and attachment to the British Government, in the classes No. 1, 2, 3, 5, 6, and 7, contained in a statement of the claims examined by the commissioners for inquiring into the losses and services of the American loyalists, with the amount and the sums reported by them to be due to each class, up to the 5th day of April, 1788, shall receive the full amount of such losses, as far as the same do not exceed the sum of ten thousand pounds; and shall also receive, where the amount of such losses shall be above ten thousand pounds in the whole, and not above thirty-five thousand pounds in the whole, ninety pounds per centum of such part of the said losses as shall exceed ten thousand pounds; and where such losses shall be above thirty-five thousand pounds, and not above fifty thousand pounds, eighty-five pounds per centum of such part of the said losses as shall exceed ten thousand pounds; and where the same shall be above fifty thousand pounds, eighty pounds per centum of such part of the said losses as shall be above ten thousand pounds.

Resolved,

"That all persons who have suffered in their rights and properties during the late unhappy dissentions in America, in consequence of their loyalty to his majesty and attachment to the British Government, in the class No. 4 and 8, contained in a statement of the class examined by the commissioners for inquiring into the losses and services of the American loyalists, with the amount and the sums reported by them to be due to each class, up to the 5th day of April, 1788, shall receive the full amount of such losses, as far as the same do not exceed the sum of ten thousand pounds, and shall also receive, where the amount of such losses shall be above ten thousand pounds in the whole, and not above fifty thousand pounds in the whole, eighty pounds per centum of such part of the said losses as shall be above ten thousand pounds; and where such losses shall be above two hundred thousand pounds, thirty pounds per centum of such part of said losses as shall be above ten thousand pounds.

Resolved,

That allowances should be made to such persons as have suffered during the late unhappy dissensions in America, in consequence of their loyalty to his majesty and attachment to the British Government, whose losses of income, arising from professions or offices, have been proved to the satisfaction of the commissioners appointed by several acts, made on the 23d, 25th, 26th, and 27th years of his present majesty's reign, and who are not adequately provided for, in the proportion of fifty pounds per centum for every one hundred pounds of such annual income, not exceeding four hundred pounds, and of forty pounds per centum for every one hundred pounds of such income above four hundred pounds, where the value does not exceed one thousand five hundred pounds per annum in the whole; and where the value does exceed one thousand five hundred pounds in the whole, then in the proportion of thirty pounds per centum for every one hundred pounds exceeding four hundred pounds per annum.

Resolved,

"That provisions be made for satisfying the claims of the several persons who have suffered in their properties in consequence of the cession of the province of East Florida to the King of Spain, amounting to the sum of one hundred and thirteen thousand nine hundred and fifty-two pounds fourteen shillings and three pence.

Ordered,

"That a bill be brought in upon the first, second, third, and fifth of the said resolutions; and that Mr. Gilbert, Mr. Chancellor of the Exchequer, the Marquis of Graham, Mr. Edward James Eliot, Sir John Aubrey, the Earl of Mornington, Mr. Attorney General, Mr. Solicitor General, and Mr. Steele, do prepare and bring in the same.

Resolved,

"That an humble address be presented to his majesty, that he will be graciously pleased to give directions that pensions be allowed to such persons as have suffered during the late unhappy dissensions in America, in consequence of their loyalty to his majesty and attachment to the British Government, whose losses of income, arising from profession or offices, have been proved to the satisfaction of the commissioners appointed by the several acts, made in the 23d, 25th, 26th, and 27th years of his present majesty's reign, and who are not already adequately provided for, in the proportion of fifty pounds per centum for every one hundred pounds of such annual income, not exceeding four hundred pounds, and of forty pounds per centum for every one hundred pounds of such income above four hundred pounds, where the value does not exceed one thousand five hundred pounds per annum in the whole; and where the value does exceed one thousand five hundred pounds per annum in the whole, then in the proportion of thirty pounds per centum for every one hundred pounds exceeding four hundred pounds per annum; and to assure his majesty that his house will make good such expenses as shall be incurred on this account."

73.

L. Cowper, Bristol, to Matthias Aspden; and note by Matthias Aspden on the same sheet to ———.

BRISTOL, 11*th October*, 1788.

DEAR SIR: Being rather busey yesterday, I went too late to the post office for answering your favor of the 9th instant by that morning's mail. The only letter to my hands for you came pr. the Forester to Dover, which, for want of particular direction where to address, I tho't best to forward about a month ago, to be left at the London coffee house, Ludgate street; presuming that, after a matterial time absent from London, it was most likely you wou'd inquire for Bristol letters there, for I knew no other coffee house you resorted to in London. I judge the letter was from Mr. Hartley. No vessel lately from Philad'a here, or any for that city up at present; or New York, Maryland, &c. My health is still precarious, and Bay consignments unusually trouble-

some, having two cargoes discharging witho't prospect of sale of either mahogany or logwood, even at very low rates. No material news here, or observations worth relating on the times, prospects, &c.; therefore conclude.

Dear sir, your most humble servant,
LANCELOT COWPER.

SIR: I am much obliged by the kind attention shown in your answer to my letter [of the] 25th; which, as it was put in on that evening, could not [have] been regularly forwarded. The favorable manner in which you *which you* speak of the capt. of the packett would have induced me to have avail'd myself of the opportunity of going in that ck ett, had I not since the re ceipt, since of writing you on the 9th, a letter from my half, [brother] Mr. James Hartley, of Philad'a, which will lead me to wait the sailing of the next packett; sh'd I not avail myself of one of several good opportunities there is now from Lond'n.

74.

John Sagar, Simonstone, to Matthias Aspden, London.

SIMONSTONE, *Nov'r 7th*, 1788.

DEAR SIR: I received your letter the day before yesterday, directed for Marjery Bailey, who I am sorry to inform you died twelve months ago, will be on the 19th inst., of an universal dropsy; she began to be poorly about Easter, '77. In her will she ordered Thos. Turner and I to be executors; she left to her brother's children what money she had, to be divided amongst them, share and share alike, except Mary Dyson and yourself. She left to a blind man in Colne £2 2s. more than any of the rest, which made 13 in number. The money has been divided amongst them according to her will; she was buryed at Padihan, and had a funeral sermon. Wm. Aspden has remov'd from his place at Harwood to Blackburn; he continues much in the old way, but very lame; his son Nathaniel, the surgeon, is marry'd to a young lady near Coln, of a good family and fortune. Your aunt lamented very much yt. she could not hear from you before she died; she died at a place very near us, call'd Althain Hall, to which place she remov'd for the benefit of being near the church; my sister and I attended her during her sickness as much as lay in our power. If you could wish to know any thing more relative to y'r friends in this part of the country, could wish you would give me a line, and you may depend on my giving you all the information in my power. My brother and sister beg their comps. to you, and accept of the same from yours, very sincerely,
JNO. SAGAR.

P. S. If you write, direct for Jno. Sagar, jun'r, at Simonstone, near Padiham.

Endorsed—Mr. Matthias Aspden, No. 17, Lower Brook street, London.

75.

Charles Biddle, Philadelphia, to Matthias Aspden.

PHILAD'A, *Feb'y* 19, 1789.

DEAR SIR: It is long since I have had the pleasure of hearing from you; before this I expected you would have returned and settled with us; we are now perfectly quiet, and I believe Arnold might return without being molested; whig and tory is entirely done away; it is now federal or anti-federal.

The new government will soon be in operation, and I have no doubt but we shall, in a short time, be a great and happy people; do come and settle with us; I should be happy to have you in my house that I might have an opportunity of returning the many favors you have conferred on me. If your eye is not better, you will receive great benefit from a spring lately discovered near Fort Pitt; the waters have had astonishing effect in your complaint.

My brother James is appointed to his old office of prothonotary, and lives in Philad'a. I was unanimously appointed secretary; I am happily settled, have six children and expect soon another. I shall flatter myself with taking you by the hand in the fall.

With great esteem, I am yr. affect. friend and ob't serv't,

CHA. BIDDLE.

Endorsed—Matthias Aspden, esq.

76.

Bishop Provoost, New York, to Matthias Aspden, London.

DEAR SIR: I have just been informed that there is a packet ready to sail for England, and tho' I am at present involved in affliction as well as business, by the recent death of a very tender and worthy mother, I can't neglect the opportunity of acknowledging the receipt of your polite and friendly favor of February the 4th, 1789. Your kind attention in mentioning my brother Bousfield and family in your letters to B'p White and myself, has laid Mrs. Provost under particular obligations.

I am really happy that your affair with the commissioners is concluded; for tho' you have not received a recompence adequate to your losses, it must undoubtedly afford you satisfaction to be freed from a disagreeable state of suspence.

The old party animosities have been gradually subsiding here since the peace, and are at length entirely obliterated by the establishment of the new constitution. Should you find it convenient to revisit your native country, you may rely upon being received in the most friendly manner by the citizens of New York, but by none with greater cordiality than, dear sir, your sincere friend, and very humble servant,

SAM'L PROOVOST.

N. York, May 15, 1789.

Endorsed—To Matthias Aspden, esq., No. 17 Brook street, London. Per packet.

77.

Geo. Harrison, Philadelphia, to Matthias Aspden, London.

Pr. Lady Penryn, via L'pool.

PHILAD'A, *Dec'r 5th*, '89.

MY DEAR SIR: I valued on you ye 13th Nov'r in favor of Moses Franks, for £21 11 6 st'g, a 30 days. A disappointment and ye difficulty of meeting with so small a bill, was ye cause of my taking that liberty. I now enclose you, to answer the above bill, one on * Messrs. C. & R. Puller, London, drawn by Tho's Stretch, favor Garrett Cottringer, for £21 12 6d str'g, at 60 days, which I hope will be good, and that you'll excuse my drawing on you. Matt's wife was delivered last night of a son.

Our convention has met, but not gone far into business. They have resolv'd in favor of 2 houses, 61 to 4; a large majority.

In haste, dr. sir, but aff. yrs.

G. HARRISON.

Endorsed—Matthias Aspden, esq're, Bath.

78.

Geo. Harrison, Philadelphia, to Matthias Aspden, London.

DR. SIR: I enclose you a second bill of exchange, drawn by Tho's Stretch on Messrs. C. & R. Puller, of London, favor G. Cottringer, for twenty-one pounds twelve shillings and six-pence stg., to answer my draft on you pr. Pigou, favor of Moses Franks, for £21 11 6. Sh'd the Pigou be a missing vessel when in cash for this, be pleased to pay M. F. my acc't £21 11 6, as I made no second, and we've had a slight rumor of the Pigou's being lost. I was in the first instance disappointed of a bill, or I should not have taken ye liberty to value on you. One of this set I remitted you by ye Lady Penryn, begin'g last month. I wrote to you for a pair of pistols, I don't know whether I mention'd it to you, but I wish them entirely plain, but to be made by the first maker in London. We've had a rumor that you intend [coming] out here in spring—if so, bring them with you.

Our convention for altering the constitution goes on slowly; finally we expect a good one.

Mrs. Arnold, wife to ye vile traitor, has been here on a visit to her family 6 weeks, and passes the winter. She has met no insult or incivility; and many warm whigs, out of respect to her fam'y visited her, tho' everybody are [of] opinion she w'd have shewn more feeling by staying away, for it places her fam'y in an awkward situation. She is handsome, and a woman; but when we reflect, the ornaments of her person are ye price of his curs'd villainy, 'tis not pleasant to the feelings; a monster who is as much reprobated your side the water as this.

* Charter House Square.

Our public paper is very much risen latterly, in consequence of ye confidence of the people in the new govermt., and their power to do justice. The second session meets this day, and the finance will be their immediate care. We have some hopes of their fixing on the neighborhood of Germantown as the federal seat. The fam'y join me in best wishes of the season, and for your health and happiness, and chearful continuance of both. Aff'y y'rs,

G. HARRISON.

Philadelphia, Jan'y 4, 1790.

Endorsed—Matthias Aspden, esquire, care of Messrs. Hoares, Bankers, near Temple Bar, No. 36, Clarges street, London.

79.

Lancelot Cowper, Bristol, to Matthias Aspden, London.

BRISTOL, 18*th March*, 1790.

DEAR SIR: I notice in your favour without date, just receiv'd, you continue to think bank directors proper persons to arbitrate between us; I am of another opinion; however, I do not object to your choice of Mr. Peters as your referee; if said gentleman will undertake the matter, please to advise, that his name, residence, &c., may be inserted in bonds of award, with some person here, who may be call'd soon to London on business, &c , and leisure to meet Mr. Peters, when there, purposely to decide the matters of the late T. Griffith's promissory note for £200. The only vessel I hear of for America is ship Bristol, Captain Adamson, a most careful commander, American built prime ship, (believe at Philad'a, and 3 years ago,) said to sail about the last of next month, or early in May; also that Mr. and Mrs. Cruger intend to go passengers with Captain Adamson, which I consider a favorable opportunity for you to visit America.

I am, dear sir, your humble servant,

LINCELOT COWPER.

P. S. If you wish it, will apply to Mr. Cruger, to whom the ship Bristol is consigned, and get more particular information respecting time of sailing, or what may relate to your passage, &c., &c.

Endorsed—Matthias Aspden, esq'r, Mount coffee house, Gro'v'nor street, London.

80.

Bond, Launcelot Cowper to Matthias Aspden.

Know all men by these presents, that I, Launcelot Cowper, of the city of Bristol, merchant, am held and firmly bound to Matthias Aspden, of Lower Brook street, Grosvenor square, Westminster, esquire,

in the sum of four hundred pounds, of lawful money of Great Britain, to be paid to the said Matthias Aspden, or his certain attorney, executors, administrators, or assigns; for which payment, well and truly to be made, I bind myself, my heirs, executors, and administrators, firmly by these presents. Sealed with my seal, dated the twenty-sixth day of March, in the thirtieth year of the reign of our Sovereign Lord, George the Third, by the grace of God of Great Britain, France, and Ireland, king, defender of the faith, and so forth, and in the year of our Lord one thousand seven hundred ninety.

Whereas the above named Matthias Aspden claims payment from the above bounden Launcelot Cowper of the sum of two hundred pounds, being the amount of a promissory note of hand of Thomas Griffiths, late of Bristol, merchant, deceased; and whereas the said Launcelot Cowper considers himself in no respect subject to the payment thereof; and whereas the said Matthias Aspden and Launcelot Cowper have agreed to submit all disputes between them, relative to the said note of hand, unto the decision of James Lockier, of the said city of Bristol, merchant, and John Whitmore, the younger, of the old jury, London, merchant, and of such other person as they, the said James Lockier and John Whitmore, shall appoint, to be umpire between them in case they cannot agree thereupon. Now the condition of this obligation is such, that if the above bounden Launcelot Cowper, his heirs, executors, and administrators, do and shall in all things well and truly stand to, obey, abide by, perform, fulfill, and keep the award, order, arbitrament, final end and determination of the said James Lockier and John Whitmore, arbitrators, indifferently named and chosen, as well on the part and behalf of the above bounden Launcelot Cowper, as of the above named Matthias Aspden, to arbitrate, award, order, judge, and determine, of and concerning all and all manner of action and actions, cause and causes of action and actions, quarrels, controversies, and disputes whatsoever, touching or concerning, or in any way relative to, the said promissory note of hand above mentioned, so as the said award and determination of them, the said James Lockier and John Whitmore, of and concerning the premises, be made in writing under the hands and seals of them, the said arbitrators, and ready to be delivered to the said parties in difference, or such of them as shall require the same on or before the first day of June next. But if the said arbitrators do not make such their award and determination of and concerning the premises by the time aforesaid, then if the above bounden Launcelot Cowper, his heirs, executors, and administrators, do, and shall well and truly stand to, obey, abide by, perform, fulfill, and keep the award, order, arbitrament, umpirage, final end and decision of them, the said arbitrators, and of such one other indifferent person as they, the said arbitrators, shall by endorsement hereon nominate as umpire between them, so as the said award and umpirage be made in writing, under the hands and seals of such arbitrators and umpire, or the majority of them, and ready to be delivered to the said parties in difference, or such of them as shall require the same on or before the

first day of September next, then this obligation to be void, or else to be and remain in full force and virtue.

And it is agreed by and between the said parties in difference, that this submission, and the award or umpirage to be made thereon, shall and may, on the motion of either party, be made a rule or order of his majesty's high court of chancery, or court of king's bench, if either of the said courts will consent thereto.

LAUNCELOT COWPER. [L. S.]

Sealed and delivered in the presence of—
W. PERRY.

81.

Geo. Harrison, Philadelphia, to Matthias Aspden, London.

MY DEAR SIR: I have rec'd yours of 26th Feb'y, pr. Pigou. I cannot conceive what you allude to by being persecuted, or who they are who possess the wickedness you describe; base and infamous must they be; for God sake leave them, leave that country where you have experienc'd so much distress and trouble; believe me, in this you'll find a repose which ye one you're in cannot afford. A small farm in this neighborhood would suit you; come then, try what we can do for you. If I could be of any service by coming over to you, I will cheerfully, and you may command me —— ———.

I have just return'd from the s'ward as far as Charleston, where I've been ye most of ye winter on business. By the return of the Pigou you shall hear from me particularly. In the interim, believe me, affectionately yours,

G. HARRISON.

Dr. Franklin died ye 19th inst.; Dr. Shovet is dead; and Mr. Riche has lost 3 of his children within the 4 months.

Endorsed—Matthias Aspden, esq., Bath.

82.

Bishop White, Philadelphia, to Matthias Aspden, London.

PHILAD'A, *May* 23, 1790.

DEAR SIR: I take up my pen to acknowledge a debt too long due; but my not answering your favor last fall was owing partly to my engagements when the vessels sailed, and partly to an idea I had adopted that you must have been on your return.

On this subject, my opinions and your feelings are so very opposite, that I hardly know what to advise. I think you would be as safe here as I am, and as little liable to insult. But what is that to the purpose, if the circumstances of your having been once under attainder should keep alive jealousies and apprehensions? I say once; for I cannot think there would be any difficulty in getting the attainder reversed by council.

As to a general act, I see no probability of it. The Congress in

their late naturalization bill did not think proper to go into the measure; but have left it, as they found it, with the different States.

In this State, I think, there is little chance of it.

You see I bring into view whatever circumstances tend to give you information, without pretending to determine what is positively best, well knowing that this must considerably depend on your view of things, whether here or in England.

Mrs. White and the family join me in aff. remembrance.

And I am, dear sir, your aff. friend,

WM. WHITE.

Mr. M. ASPDEN.

Endorsed—Mr. Matthias Aspden. To the care of Mess. Hoars, bankers. To be left at ye Pennsylvania coffee house, Birchen lane, London.

83.

G. C. Fox & Sons, Falmouth, to Matthias Aspden, Bath.

FALMOUTH, 22*d June*, 1790.

ESTEEMED FRIEND: In reply to thy favor of the 19th inst. informing us of a friend of thine intending to embark in one of our packets for New York, the passage money is as usual, 36 guineas, with something additional when they touch at Halifax, the captn. finding all necessaries for the voyage, except bedding. We believe the Grantham will be the ship appointed for that voyage, but at present it is very uncertain, as the next mail does not go untill the next month; but these ships are in general good, and the commanders obliging to their passengers. Should thy friend determine to come here, we shall render him any service in our power, and remain, very truly, thy assured friends.

GEO. C. FOX & SONS.

The mail leaves London the first Wednesday in the month, and is despatched from hence the Saturday if the wind favour, unless the packet should be detained for Government despatches, as sometimes happen. It's as yet uncertain what packet may be despatched for New York; we apprehend she'l touch at Halifax, but that no additional sum will be added on this acount to the passage money.

Our G. C. F. sends his respects.

MATTHIAS ASPDEN, esq., Bath.

Endorsed—Matthias Aspden, esq., Bath.

84.

J. Warder, London, to Matthias Aspden, Bath.

LONDON, 6 *mo.* 28, 1790.

DEAR MATTHIAS: I have just received thy favour of yesterday's date, by which I am pleased to find thou art yet in the land of the living, and I hope enjoying a good state of health. Thy good wishes for me and mine is very acceptable.

Not any letters have been put under my care, or I should most certainly have forwarded them before now.

In reply to the question thou puts to me respecting the disposition of the people in America towards those that left the country during the war, and were proscribed, I may inform [you] that I have not known an instance of any one, during my residence in America, being hurt or insulted; even our friend Sam'l Shoemaker, who was in as much danger as any man I know, ventured to come and reside in the city last winter, and was very civilly treated, even by the most violent. I have observed since my being in Philadelphia that the violent people have daily been losing ground; and I think I may say there is not now any distinction between those that have hitherto been called *wigs* and torys; every man now wishing to do what is in their power for the prosperity of the present Government, which I am happy in being able to say I think is firmly established.

There has not been any one instance, to the best of my belief, of any person being obliged to appear in court to plead his pardon; nor has any body been committed to prison on acc't of his having left Penn'a during the war. Nor have I the least doubt but thou might live as free from any fear of that kind in Philadelphia, as thou could if always in that city.

It is difficult for me to recommend thee either to remain in this country or to go to America. If I knew which country would most promote thy happiness, I would most certainly recommend it; but that must entirely depend upon thy own feelings.

The ships Marquis de Lafayet, the Appollo, the Pigou, and the Harmony Osman, are all bound from hence to Philad'a; the first it's said will sail the 10th or 15th next month; the others, I fancy, not in less than three or four weeks after. They are all **** good ships.

Capt. Sutton has not come in the Pigou; his late mate commands her; and I assure thee he is an experienced good seaman, and a man I much respect. In haste, I am, with due regard, thy assured friend.

JNO. WARDER.

Endorsed—Matthias Aspden, No. 19 Gay st., Bath.

85.

H. Hoare & Co., London, to Matthias Aspden, Bath.

London, 1*st July*, 1790.

Sir: Agreably to your desire, we send enclosed a bank note for fifteen pounds. We should be very happy in accommodating you with letters of credit, had we any correspondents at New York or any other part of America.

We are, sir, your most obedient serv'ts,

HENRY HOARE & CO.

Matthias Aspden, esq.

Endorsed—Matthias Aspden, esq., No. 19 Gay street, Bath.

86.

Memoir or case of Matthias Aspden.

Mr. Aspden intended to have gone to England in a vessell of his that sail'd the 10th Sept., 1775; was prevented from the distress the circle of his friends were thrown into from the carting abt. the streets Doctr. Kearseley and Mr. Counsellor Hunt by the mob, and the appearance it had of a desertion of them at that lamentable period.

He was also prevented going to England in the Swallow, Brittish packet, from New York; on board which he went with a written permission from the committee for that purpose, the latter end of March, or beginning of April, 1776; had stores sent down thro' his application to the committee and commanding officer for himself and the other passengers going; and should have gone, but Governor Tryon requiring an oath that he had before given up, aad about which he went to New York and got the Mayor or Mr. Matthews to go down and speak to him respecting them, which he did; and return'd with an answer that he would decline requiring it, as he had already given permission to go. This assurance he afterwards went from, and required the oath; Mr. Aspden refused, and another, natives of America, except that part of it that went bear true allegiance—First, as he had broke his word. And, 2dly, from his conceiving that he had no right to require it. And return'd on shore, on or abt. the 2d or 3d of May, after being a month or more on board the packet, and came back to Philad'a, where he found his house let and his servants discharged, agreeable to his directions to his half-brother, James Hartley, by letter from on board the packet when he found he had full leave to go. His residence in America after that, he considered merely transient—waiting only an opportunity to leave it. This he flattered himself he should, in the Fowey man-of-war with Govern'r Eden from Anapolis, where he went for that purpose; urged by the pressure of large concerns in England which had centered there under *there under* the pains of the prohibitory act, and other inducing consideration—but was disappointed from the truce being broke under which she came up the second day after she arrived. He finally embark'd from the port of Philad'a in the schooner Bentham, Rob. White mast., bound to Corrunna, in Spain, and went on board at New Castle on the 19th or 20th of Sept., 1776, under the protection of that clause in the prohibitory act which enter the mariners taken on board American vessels, and sets the passengers and capt'n at liberty on shore. Having done no act to forfeit his allegiance, and having lawful business in England, where he arrived on or ab't the 2d of Decem'r following, and there remained till the 10th of June, 1785, when he embark. again at Falmouth for America, except an excursion for ab't two months in 1778, to Flanders, Germany, and Holland.

Mr. Aspden apprehends the attainder may be reversed on the following account:

First, for error. As he was not liable to be called upon, having

never done the act that gave the council power to require parties to render themselves, &c., to wit, joind the Brittish army.

2dly. That he was born a Brittish subject, and always lived one. Having left America, and made his election previous to the new government being either organized or established; and, therefore, could not lawfully be called upon to take his trial as a traitor, owing allegiance to another State.

3dly. That his attainder was under an act operating "non ex post facto," and therefore repugnant to the constitution, the divine law of Scripture, and the principles of common justice.

4th. Independent of the foregoing, he was in duress in England from the state of his affairs there; and cannot at present be long absent from thence on the same account.

Act declareing what shall be treason, passed Feb'y 11th, 1777.

"That all and every person and persons, now inhabiting, residing, or sojourning within the limits of the State of Pennsylvania, except prisoners of war, or whoever shall come, &c., do owe and shall pay allegiance."

An act for the attainder of divers traitors, &c., being all subjects and inhabitants of the State of Pennsylva., to render themselves on or before the 20th Ap'll and take their legal tryal—or forfeit—for having joined the army, &c. Further enacting "that all and every person and persons, being subjects or inhabitants of this State, or those who have real estates in the commonwealth (being subjects, it is presumed, is the meaning of the act, or otherwise an absurdity and a contradiction in terms and fact will follow) who now do adhere to, and knowingly and willingly aid and assist the enemies of this or the United States of America, by having joined their armies within this State or elsewhere, or who hereafter shall do the same, and whom the executive council by their proclamation shall require by name to render themselves on a certain day, &c., to take their legal tryal for such their treasons," &c. In case of not appearing, to stand and be attainted of high treason. Passed the 6th March, 1778.

Quære. Can a person not a subject be lawfully tried for treason—can a man serve two masters?

Supplement to the above act empowers the executive council to sell the estates of traitors duly forfeited.

Claims on estates to be made within six months—if any. Attainder reversed or made void for error, or for any cause whatever—the same not to injure bona fide purchasers; and in such case the party to apply to the legislature to be indemnified.

Purchasers evicted by a judgment of the court of common pleas or supreme court, to be indemnified out of the treasury.

87.

Memorial of Matthias Aspden to the Privy Council.

To his majesty's most honorable Privy Council,

The petition of Matthias Aspden, an American sufferer, formerly of the city of Philadelphia, merchant, sheweth:

That your petitioner, who is a native of North America, presented to the commissioners for American claims, about the middle of December, 1783, immediately on the receipt of a valuation made of his estate in America, a memorial on the subject of his losses and sufferings, in consequence of his attachment to the Brittish Government and compliance with the act of the 16th of his present majesty, in sending his vessells to England, and thereby relinquishing for a time, by so doing, as might be, the means of his support in that country.

That your petitioner was examined on the subject of his memorial on or about the 23 Feb'y, 1785, near fifeteen months after; and finding that there had been no allowance made to him under their ensuing report at the treasury, as there had been to others, whose claims had been examined subsequent to his; and as this silence left him open to an imputation of fraud, the commissioners he conceived having no right to reject his claim, as this silence left room to believe, under the act of enquiry, unless fraudulent, which, as far as he knew, he was conscious it was not; for he could not suppose his answer to a mysterious question ask'd him on his examination, who was a merchant, whether he intended to go in and reside again in America, (when at liberty,) "that he did," could be any authority under the powers entrusted to them in the act to reject his claim, or to observe a silence that might leave him to suppose the had, more especially as it might be concluded as he was a native of America, his mercantile engagements and support might be connected with the tye of birth and residence in that country. Your petitioner therefore soon after applied to the board by memorial or letter, to be inform'd if the had made any report on his claim, as this silence left him doubt; and if the had, what might be their reasons or objection to not allowing him a compensation on his claim, as the had done to others in a similar situation, that he might bring such proofs as might remove them. To this request your petitioner received the following answer, dated the of October, "that the commissioners had reported on Mr. Aspden's case to the Lord of the Treasury and Secretaries of State, and cannot communicate the particulars of their determination to the parties—no further proofs are required of Mr. Aspden;" which appear'd final from the latter part of it, but left him in a very cruel state of suspense with respect to the particulars or purport of their report; and in this dark state of lingering suspense he continued, notwithstanding his repeated application to the commissioners from time to time and year to year, and once by petition to the Lords of the Treasury, to refer the case back to the commission-

ers for reconsideration, or to inform him as a matter of justice and humanity, the purport of the report, that he might, if it did not leave an imputation of fraud on his***, be satisfied therewith; or if it did, that he might bring the proofs that would remove every objection to there being [the] least fraud in the case. No satisfactory answer was given to this, by the Lords of the Treasury, or by the commissioners, to his repeated applications, until April, 1788, when his mind was relieved from the pressure of this weighty and interesting concern by the receipt of a letter from the secretary to the commissioners, encloseing him the following minute, nearly upon the close of the enquiry, and after more then five years' attendance on them, "that the commissioners had received further information on Mr. Aspden's case, and would report their opinion on the same in their next report." This, on issueing their certificates in the month of November following, he found was favorable, although this he conceived according as the had done to others far from adequate, to what his losses and sufferings entitled him too.

That your petitioner being still in the dark with respect to the particulars or purport of their first report, and feeling it heavy on his mind, as well as the injurious effects of the unreasonable delay he experienced before compensation was allowed on his claim, earnestly requests, as a matter of justice, and he conceives of right he is entitled too, that the council would be pleased to direct copies to be given him of the report first made by the commissioners to the Lords of the Treasury on his case; also of the last, and of others, if any there be.

And your petitioner shall forever pray, &c.

Nor has he had any allowance or support from govern't, further then what he has derived from that part of his capital sent as aforesaid, and income arising from it, since his comeing to England in the year 1776, and not the case he believes in any other sufferer in rights and estate beside from America.

88.

Limozin & Co., Havre, to Matthias Aspden, London.

HAVRE DE GRACE, 11*th Janu'y*, 1791.

Mr. MATTHIAS ASPDEN, No. 10 Russell street, Bloombury,
to the care of Messrs. Hoares & Co., bankers, London.

SIR: In reply to your favour, 4th instant, we thank you for all the kind wishes therein contain'd, and return you the same from the bottom of our hearts. We have no pakketts sailing from here to New York; those vessels generally sail from L'Orient, but we have, now and then, merchants' ships coming from America to our port, and returning to their respective destination. The price for a passage is customary from 15 to 20 guineas. As to your uneasiness about the troubles in France, you may be sure to travell thro' all the kingdom without the least molestation. We now enjoy the fullest quietness in every

quarter, and we are now so far advanced in the new constitution that we have not the least thing to apprehend from the attempts of the malevolent; and

We are, with due regard, sir, your most obed't h'ble servant,

VE. LIMOZIN & FILS.

Endorsed—Mr. Matthias Aspden, No. 10 Russell street, Bloombury, to the care of Messrs. Hoare & Co., bankers, London.

89.

Matthias Aspden, London, to James Hartley, Philadelphia.

LONDON, *Feb'y* 27, 1791.

DEAR BROTHER: You have herewith what the painters call my shade; pretty well as to likeness ab't the neck and head, but wants heighth, and has the left knee too much hollowed. Had it not been for your letter of the 24th May last, you would have seen me among you in the course of the summer in propria personæ; this I hope will be the case in the course of the ensuing summer, a day, you will say, after the fair. Should you not approve of haveing any thing hanging up in your house, painted like things on earth, you may give it to nephew or niece, if I have one, or a friend whom my advice might have saved from ruin, or comparatively a very comfortless life. It was impossible, after being made to bend to purposes from the operation of the prohibitory act in the first instance, and other considerations, and afterwards, to my comparative destruction, to be kept six years after the peace waiting for an answer from the commissioners in my case, the vindication of my probity being the object, as the had no right in the premises to reject my claim, unless fraudulent, which alone made me anxious ab't it; and see the Parliament ab't the to make the largesses the were to those who at one time would not been considered entitled to it; and hearing also of the partial conduct of the commissioners in other instances, not to be roused to seek some further redress in my case, who had been kept for selfish purposes in the cruel suspence I was, and had suffer'd as I had done. This led me, as I had no other resource, to go down to the House with a petition, and send in a note to the Speaker, desireing I might have leave to present the same at the bar. While the messenger was carrying in my note my eye caught Mr. A. Rawlinson, who was writing in an ante-chamber, who had but lately come [to] town, to whom I gave my petition, acquainting him that I had just sent in a note to the Speaker for leave to present it. He gave me to understand that he would present it as a matter of duty. The speaker's secretary just then came to me, and told me that he could not with propriety give my note to him till the House was up, but would then, a copy of which I showed him. I told him I had left the petition with Mr. Rawlinson (who I believe had came into that room [to] catch my attention) to deliver to the Speaker, or present himself. The business before the House was Lord Fairfax's and the Penn's. Mr. Rawlinson,

I am inclin'd to think, got cajol'd by some persons not my friends, and behaved very unworthily in the matter, and nothing was effected.

From your brother and friend,

MATTHIAS ASPDEN.

I refer you to the annual register for the number of land forces voted in '75, and also seamen for the navy. Mr. F—x—ft of New York, will tell you of the strength that landed and arrived in America in 1776. It is all over, and we must forget every thing.

Endorsed—Mr. James Hartley, merchant, Philadelphia.

90.

Thomas Aspden, Great Harwood, to H. Hoare & Co., London.

Messrs. HENRY HOARE & Co.

GEN'N: Before this time I expect you have rec'd a letter directed to Mr. Matthias Aspden, to your care. Business calling me off in a hurry, I clos'd up the letter without a date, which is the necessity of my writing, after doubting he'll not be able to direct, as I wish'd, an answ'r. Shall take it as a particular favour if you have not the opportunity of giving these lines to Mr. Matthias Aspden, that you will ** me the favour of forwarding them to Mr. John Asp**n, Old st., London; hoping he will be able to find his r * idence, doubting not but one of them will return you every favour in their power to requite you for your trouble, and shall

Remain, gen'n, your most ob't hum'e ser't,

THO'S ASPDEN.

Great Harwood, near Blackburn, Lancashire, March 7, 1791.

Endorsed—Messrs. Henry Hoare & Co., bankers, London.

Mr. John Aspden, Old street, London.

91.

Matthias Aspden, London, to Mrs. Mary Harrison, Philadelphia.

LONDON, *March* 18, 1791.

DEAR SISTER:

Having lately been call'd upon by William Corless, son of our cousin, Elizabeth Corless, sister to Mary Aspden, who was in Philada., who is well settled in the manufacturing line at Blackburn; he acquainted me with some particulars relateing to the state of our relations in the north, which as it is more than probable you have not heard, leads me, pr. the present opportunity, to acquaint you therewith. Our aunt, he informed me, died some time ago at Altham Hall, to which she had removed some time before her death, for sake of being near the church. At her burial, a funeral sermon was preach'd by the Rever'd Mr. Fishwicke; of course, it may be concluded if she was not a great, she was a good woman, and as *the* say in that country, well descended,

William Aspden is also dead, about two months ago. His son *is* married a lady of fortune at Colric, and well settled there as a physician. While he walk'd the hospitals in Lond'n, he made *is* home with Mrs. Noel. James Dyson, husband of Mary Aspden, likewise died ab't two months ago, leaving her and family in pretty good circumstances.

Our aunt left her property among thirteen nephews and nieces, the names of all I do not recollect.

Nathaniel Aspden has married a second wife, has a large family, and rather lived *to* freely for one so circumstanced.

Thomas stands respectably, and is doing well. I was surprized to understand by a letter lately from him, that our father had ten brothers who grew to men's estate; six I thought had been the number; but this was number who died in England, and four abroad, to wit, Matthias in Philad'a, Ralph and James in Virginia, who I can't say I ever heard of; and Richard in Minorca; Margery and Mary at Simonstone; the latter also I never heard of. It was my intention, had I not been misinformed of the time of this vessell's sailing, to have taken my passage in her; shall now embark in the packet from L'Orient, and go for Paris next week, where I have never been, and hope to be in Philad'a first week in July. With kind love to all the family,

I am, your affectionate brother,

MATTHIAS ASPEN.

Another circumstance I was inform'd, singular enough, according to my age, that our grandfather was born in the [year] 1648, grew up, and lived in all the troublesome times of Charles 1st and Oliver, and married in the year of the revolution, 1688, and died in 1728; his wife the year before.

Endorsed.—Mrs. Mary Harrison.

92.

Matthias Aspden, London, to James Hartley, Phila.

DEAR BROTHER: You have herewith a few papers, and a letter from John Hall, enclosed to me from his father, who knew me when a little boy at school at Whalley, in Lancashire, and has lately come to an estate of £200 a year and upwards. This letter you will give to him, or send to him if not in Philad., as he has not heard from him this three year.

Had I not been inform'd this vessell w'd certainly sail earlier than she does, I would have embark'd in her; as it is, haveing never been in France, I go next week to Paris, and shall embark in the L'Orient packet for New York, and hope to be in Philad'a early in July.

As the state of my health, from various causes, requires me to live a still and quiet life, I shall be glad you will look round for a dineing room,

apartment, with the use of a kitchen, and servant's room; if the maid of the house will dress a plain dinner, dineing at 3 o'clock, if not two, an hour earlier than I have been obliged to accustom myself these fourteen years past, and which an indifferent appetite has made long reconcileable. You see by my seal I neither use the crest of the Scroops', "a plume of feathers out of a gold crown," or that of the Jones', "a lion holding fast to an anchor," to either of which I have a right, being, according to our aunt's acc't, of Roman descent, witness noses; nor should I have thought of this, had I not been insulted with seal'd notes from some upstart rascals, to show their consequence, or display their vanity.

I am, your brother and friend,

MATTHIAS ASPDEN.

Lancelot Cowper paid me last week £300 on acc't of the note that has been in dispute. Statement of the case I here send you.

London, March 18, 1791.

Endorsed—James Hartley.

93.

Will of Matthias Aspden, cancelled.

"My name tore out by me, and declared void by me.

MATTHIAS ASPDEN."

Be it remembered that I, Matthias Aspden, formerly of the city of Philadelphia, in the province (now State) of Pensylvania, merchant, and now residing in lodgeings at No. 10 in Great Russell str't, Bloomsbury, in the city of London, gentleman; being of sound mind and memory, do make this my last will and testament, in manner following:

First. I give and bequeath to my niece Mary White, wife of the Rever'd William White, bishop of the episcopal church in Pensylvania, in North America, and now resideing in Philadelphia, the interest, anuity, or dividend on the sum of two thousand pound four pr. ct. bank stock, being part of the sum of twelve thousand five hundred pound I have at this time in the Bank of England four pr. ct. stock or annuity, dureing the term of her natural life; the principal then on her decease to be equally divided among her children, their heirs and assigns. And in case of the death of any of the children before me, leaveing lawful issue, then that share that would otherwise have gone to the parent, had he or she been living, to go among such issue, their heirs and assigns. This sum to remain where it does, or drawn out, with the consent of my said niece, by my executors, and placed to interest in America, as may be conceived best.

["Void. M. A." is written across the above paragraph."]

I give and bequeath to my three nephews, Joseph, Matthias, and George Harrison, brothers to the said Mary White, and now residing in Philadelphia, the sum of two thousand pound of the said four pr. ct. bank stock, to each of them, their heirs and assigns; and in case of death before me of any of them, leaving lawful issue, the sum left them to go as provided in the case of their sister.

I give and bequeath to my two half-brothers, Roger and James Hartley, now residing in Pensylvania, in North America, the sum of one thousand five hundred pounds of the said four pr. ct. bank stock to each of them, their heirs and assigns. I give and bequeath to the children of my deceased half-brother, Benjamin Hartley, now or late residing at Hadonfield, in the State of New Jersey, in North America, the like sum of one thousand five hundred pounds four pr. ct. stock, to be equally divided among them, their heirs and assigns. And in case of the death of any of them before me, leaving lawful issue, the same to take as provided in the case of my niece, Mary White. I give and bequeath to the children of my deceased half-sister, Ann Hinchman, late wife of Will'm Hinchman, to wit, Ann, John, William, and James, now or late residing at or near Hadonfield, in the aforesaid State of New Jersey, in North America, the sum of one thousand pounds, five pr. ct. bank stock, (being part of the sum of £3,000 I have at this time in the five pr. ct. Bank of England stock or annuities,) to be equally divided among them; and should any of them die before me, leaving lawfull issue, or at this time be dead, leaving lawfull issue, the same to take the sum left the parent, as provided in the case of my niece, Mary White. I give and bequeath to my half-sister Bathsheba Zane, wife of El. Nathan Zane, residing now or late at Hadonfield, in the State of New Jersey, in North America, the like sum of one thousand pounds, five pr. ct. bank stock, her heirs and assigns; the same to remain were it does during the term of her natural life, she receiving the interest or dividend on the same, or may be sold out by my executors, with her consent, and placed to interest in America, as may be judged best, the donor's intention with respect to the safekeeping of the principal being properly attended to. And on her decease, if she survive her husband, if not, on his decease, the same to be equally divided among her children, as provided in the case of my niece, Mary White, the interest to be paid into the hands of my half-sister during life, then to her husband, in case he survive her, during his life, and then on his decease to go, as here provided, equally among her children.

I give and bequeath to my half-sister Rebecca Kay, late wife of John Kay, deceased, now or late residing at or near Hadonfield, in the aforesaid State of New Jersey, in North America, the like sum of one thousand pound, five pr. ct. stock, her heirs and assigns; and in case of her decease at this time, or before me, the same to be equally divided among her children, as provided in the case of my niece, Mary White.

apartment, with the use of a kitchen, and servant's room; if the maid of the house will dress a plain dinner, dineing at 3 o'clock, if not two, an hour earlier than I have been obliged to accustom myself these fourteen years past, and which an indifferent appetite has made long reconcileable. You see by my seal I neither use the crest of the Scroops', "a plume of feathers out of a gold crown," or that of the Jones', "a lion holding fast to an anchor," to either of which I have a right, being, according to our aunt's acc't, of Roman descent, witness noses; nor should I have thought of this, had I not been insulted with seal'd notes from some upstart rascals, to show their consequence, or display their vanity.

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I give and bequeath to my following relations, now residing at or near Blackburn, in Lancashire: First, to the widow of my cousin William Aspden, lately deceased, the sum of two hundred pound. To my second cousin, her son, Doctr. Nathaniel Aspden, the sum of one hundred pound. To my cousin Thomas Aspden, the sum of one hundred and fifty pounds. To my cousin Nathaniel Aspden, the sum of two hundred pounds. To my cousin Elizabeth Corless, widow of John Corless, deceased, the sum of one hundred pounds. To my cousin Mary Dyson, (widow,) the sum of fifty pounds. To my cousin Ann Walmsley, wife of Lawrence Walmsley, the sum of one hundred pound. To each of the children, that may be liveing, of my uncle Thomas Aspden, deceased, ten pounds. To a blind man, grandson of my uncle Thos. Aspden, one hundred pounds. To my second cousin John Aspden, liveing in Old street, London, ten pounds; and to his two daughters the sum of ten pounds each. To my cousin Ann Dugdale, wife of John Dugdale, liveing in Lanca * * * * the sum of one hundred pounds. I give and * * * * * * * * y nephew, Matthias Harrison, his heirs and assigns, all my plate; likewise my house in Water street, in the city of Philadelphia, in North America, which has been unjustly seized and confiscated, under pretence of high treason, by the State of Pennsylvania. I also give and bequeath to my nephew James Hartley, at Hadonfield, in the State of New Jersey, North America, my plantation in Chester county, in Pennsylvania, in North America, his heirs and assigns, which has been lately confiscated and seized under pretence of high treason by the State of Pennsylvania.

I give and bequeath the rest and residue of my estate, real and personal, to be divided into six equal parts in the following manner: I give to my half-brother Roger Hartley one equal part; to my half-brother James Hartley one equal part; to the children of my half-brother Benjamin Hartley one equal part, to be equally divided among them. I give to the children of my half-sister Ann Hinchman, deceased, one equal part, to be divided equally among them. I give to my half-sister Bathsheba Zane one equal part. I give to my half-sister Rebecca Kay one equal part, and to their assigns respectively. It is also further my intention and desire that the several legacies left to principals, in this my last will, are not to lapse in case of their decease before me, but to vest and go among their children as provided, as if the had been liveing at my decease. I do further constitute and appoint my nephews Matthias Harrison, George Harrison, and my half-brother James Hartley, and my nephew James Hartley, and my nephew Isaac Kay, to be my true and lawfull executors to this my last will and testament. As witness my hand this 3*st day March, 1791.

* * *

Owing no money, I have made no provision for payment of my debts; however, in case there should be any just debts oweing on my decease, it is my desire that the should be paid, and all my funeral ex-

penses. And it is likewise my desire, in case I should die in England, that my body be buried at Padium or Padiham church, in Lancashire, and a plain handsome monument erected to my memory, with a suitable inscription thereon; that being the church where my grandfather and grandmother are buried at, and where all my father's brothers and sisters were christened. My grandfather was born abt. or in the year 1648, place by me not known; my grandfather was a Scroop.

MATTHIAS ASPDEN.

Or at the nearest church to which I may die, or at Aspden, Hertfordshire, or Groombridge chappel, Kent. My mother's maiden name was Rebecca Packer—as not may not be to inconvenient—and the above directions observed.

Endorsed—Will of Matthias Aspden.

94.

R. Barclay, to Matthias Aspden, London.

DR. FRIEND: Accept my best wishes for your having a fine passage, and a happy meeting with all your friends in our native land. The three inclos'd letters be pleas'd to deliver on arrival.

I am respectfully, y'rs,

R. BARCLAY.

13 July, 1791.

Endorsed—Matthias Aspden, esqr., No. 16 Caroline street, Bedford square.

95.

Benjamin Chew, jun., to Matthias Aspden. Note of Matthias Aspden at foot.

SIR: Mere accident last evening discovered to me, much to my surprize, that my servant had neglected to carry to your lodgings my letter or note written as dated, which I apprehended would have sufficiently been in time for your return from the country. I herewith enclose you, as you desire, the bond of Mr. Jos. Wharton, left with me; as also the account ag't the estate of Mr. Jos. Shewell, and am with due respect, your obed't h'ble serv't,

BENJAMIN CHEW, Jr.

Walnut st., Monday, 26th March, 1792.

Endorsed—Matthias Aspden, esq., 144 North 3d street.

This letter will shew that the bond of Joseph Wharton, and acc't again Jos. Shewell, or more properly the estate, were put into the hands of council, who act as attorney, and who was fee'd on the occasion, to recover by course of law; which, as practicable or not, would either prove the nullity or shew the attainder was in force again me, as far as they related to my real and personal estate, and being inform'd it was not practicable, he desired the might be return'd to me again:

and further shews, as I believed when examin'd by the commissioners for enquiring into the merits and losses of American sufferers, that my attainder was evidence, both of loyalty and losses, and really was independent of other conclusive matter stated.

The within bond was left with Mr. Abraham Liddon, a little before I left Philadelphia, the latter end of June or beginning of July, 1792.

M. A.

96.

Matthias Aspden, Philadelphia, to H. Hoare & Co., London.

PHILADELPHIA, *Ap'l* 28, 1792.

Messrs. HENRY HOARE & Co.

GENTLEMEN: I wrote you in Octob'r last, soon after my arrival here, and to several friends in England, by the return of the London vessells, and have since been without any answer to my letters, which I ascribe to their thinking I should return in the Decemb'r packet; this might been as well from changes perceived, and the state of desolation I found our house in here, had other circumstances permitted. The receipt of some monies with the funds I bro't from England, has made it not necessary for me [to] draw on you since I have been here, nor do I believe I shall have occasion while I continue; how long this will be, the next arrivals will determine.

I had thought of giving you orders by this opportunity to purchase for me £500 Bank of England stock, but as there are vessells now going almost daily to different parts of England, will defer it a week or ten days longer. The ballance of my acc't with you I believe must be above £1200 ste'g, which is more than a man of small fortune can afford to let lay without some return. I did intend to have applied it another way, but now believe I shall not.

I am, with respect, gent'n, your friend,

MATTHIAS ASPDEN.

To Messrs. HENRY HOARE & Co.,
Bankers, London.

I have lately discovered, from an adjudged case in 1781, that I could not lawfully been the object of an attainder, having left America and made my election before the government here was form'd; were there was no law, there could be no transgression. This, had I known ten years ago, would been of the first importance. From changes and combinations, I am doubtful it's now too late.

(Vide letter, No. 108, printed page 517.)

97.

Matthias Aspden, London, to Abraham Liddon, Philadelphia.

LONDON, *Sept. 10th*, 1792.

RESPECTED FRIEND: I wrote you a few lines from Bristol, acquaint-

ing you of my arrival at Falmouth on the 9th ult., and of my intention of going on from thence into Lancashire, as I had a fortnight or three weeks to spare before I wish'd to be in London. I accordingly went, and reach'd this city on Tuesday last, after a journey of 700 miles. At Warrington, I saw Mr. Ellis Nent, and mention'd the scandalous confederacy of the passengers, cap'n, and Grange's consignee; for I have no doubt he was in the party; and also my old friend Jo'n Chorley, at Liverpool, whom I desired to express my sense of it to Nic. Ashton, who was at Lancaster assizes; or otherwise, if he had been at home, I should have waited upon him, and have no doubt, if the juggle had been disgraceful on the part of the capt'n, he would have acted accordingly. As these places were in my way, takeing a corner in the mail coaches where the offered, I went from Liverpool to Preston, where I met with Wilson, the plumb picker, i. e. grocer, who I remember when a little boy there, is now ab't 70, and has been some years retir'd, and lives in the house I used to lodge at, which belong'd to his uncle. I told him I had often been sorry my father had not left me there, and put me prentice to the trade, or some good attorney, or cotton tradesman; it might have saved me many a painfull and anxious hour. I also saw there my old master, Shepherd, who is still a very hearty man, of 75 at least, and continues teaching school in the old place he did the 18th Jan'y, 1762. All my intimate schoolmates I found dead or dispersed. I saw there our country folks, Mr. [and] Mrs. Beach, and their pretty daughter, who talk of being in London this winter. From thence I went to Blackbourn, where I met my cousin Mary Aspden that was, now the widow Dyson, and a grandmother, (you will say now touch me not,) and many other relations, whom you may tell grandmother Harrison are most of them in much improved circumstances, and in prospering way;) so much for manufactures, and of course trade.) Mary Dyson's daughter is married to her cousin Matthias Corless, (keep the Matt. in *in* the family.) The number of Matthias's in this part of the world are many, one they tell me in every family. Matthias is in partnership with his two brothers, Richard and Thomas, industrious, active young men, who are call'd in this country, and call themselves, cotton tradesmen. The have a warehouse in Blackbourn, and a large cotton mill on a good stream ab't a mile from the town, which carries round a wheel that turns a number of jennys. The employ a good many hands; children from six years old to persons 70 and 80. Children of six, 7, and 8 y'rs old, will earn 2s. to 3s. a week, tending the **** at a 1d. a quart. This will find them in bread and milk, and to spare. Women earn from 10s. to 12s. a week. The have three other brothers; the eldest was in another partnership in the same line, but ruined by the Livesays. Assisted by his friends, *his* is now by himself, and doing pretty well again; another in the cotton trade, and the other keeps a shop, and lives with his mother; both doing very well. Hall, who married Whitebread's daughter, was at Blackbourn. His father and him have differ'd; he has offer'd him fifty pounds a year to dock an entail of an estate of

£250 st'g a year, which must come to him on the death of [his] father, and a widow, who at present receives fifty pounds a year, which he will not consent to, and I think is right. His father, I am told, gave him money, which you may inform Mr. Morgan, to pay or take up the bill for his passage; but I underst.— and he thought he wanted it very badly himself, and defers it till another time. He has three daughters, and no son yet. I believe the will do pretty well. Plenty of coal ab't Blackbourn. Tell them at Philad'a to get grates and burn coal, and a little short wood in their kitchen; it will be the cheapest and best fire; at the end of the grate, the may have a cast iron oven, with a division in it ab't the middle, fixed with brick on edge. There is an iron plate, 9 inches wide, fixed about a foot above the oven, which on pulling out draws a blaze out of the grate under the oven, and heats it in twenty minutes; on pushing it in the blaze ceases, and it becomes a damper; there is another of the same dimensions fixed a foot below, which on drawing out lets out the cinders and ashes, and acts as a cooler. The are in use in Lancashire, and all over the north; and the women tell me the are the best things in the world for every purpose of bakeing. Now, tell them to be wise with you; and that is to act like honest men, and return me my estate. If the will but think, the must be sensible, there is nothing could exceed the superlative injustice of takeing it away. See, at this time, France and St. Domingo, how friend and foe are flying without being drag'd to any place of shelter the can get to; had the latter been otherwise with me, I think I should have preferr'd the risk of being knocked in the head in America, to going to Europe to starve. Be kind enough, if you have not wrote, and from [time] to time, to let me know what steps you have taken in this matter, and how you are likely to succeed. I believe I may venture to predict to you that it must be restor'd. My kind respects to Mrs. Liddon, and same remembrances to all worthy friends and relations.

I am, with real esteem, yr. friend,

MATTHIAS ASPDEN.

These ovens are ab't 18 or 20 inches square.

98.

Ab'm Liddon, Philadelphia, to Matthias Aspden, London.

PHILAD'A, 11 *mo.* 24*th*, 1792.

RESPECTED FRIEND:

I receiv'd thy favor of the 17th of the 8th mo. last, dated at Bristol, which gave me an account of thy safe arrival and journey to Bristol. I am glad to hear the had a pleasant passage, tho' the met [with] some difficulties; I hope the was not much hurt by the stage's oversetting. I was sorry I was not at home when the went away, as the left a power of attorney for me to act in the recovery of thy estate. I thought the had met [with] so many discouragements from the lawyers here the would not have attempted it; but if the should continue in the same

mind still, the must impower some more proper person to undertake it, as I cannot have any thing to do with the law, therefore have not proved thy power of attorney. I have spoke with thy brother-in-law, James Hartley, concerning the note the mentioned; he says he will not pay it, but that he is willing to leave it to a reference, the chusing one man and he another. I told him I would let the know his determition. If the should have any business here without being concerned in the law I shall be willing to do it for the chearfully. Our family and friends are all in pretty good health at present, and my wife joins me in love to thee.

I remain thy friend,
AB'M LIDDON.

Endorsed—Matthias Aspden, Bath.

99.

Matthias Aspden to Abraham Liddon, Philadelphia.

DEAR FRIEND:

An oppertunity offering for New York, I embrace it to request should the debt due to me be paid to you when this comes to hand, from Josep Shewell estate, you w'd be kind enough to invest it, with any other monies of mine that may come into your hands to within fifty pounds, in either the £6 pr. c'ts, or £3 per. c'ts, defer'd stock, as you may think best, on my account, until you hear further from me. I left in the bank of North America a box or case containing my plate, ab't two hundred fifty ounces; there is a label on it in these words, "plate, the property of Matthias Aspden." There is an entry made of it in the bank books. Should this bank be in cash for my half-brother's, J. H., note, I request it may be invested in same stock, and such further sum as the bank may have of mine in their hands, to within one hundred dollars.

I was yesterday, to begin with, taken with a writ of execution, though conscious I was free from all debt, at the suit of a taylor for a coat made for me two years agoe last May, and not fitting was immediately taken back by the man that brought it, it being so short and so flanting and pinch'd that it could not be let out, telling him I was going to Bath in two days, and if he would make me one that did fit I would take it; instead of this he sends me the same coat down to Bath, wh'ch was return'd and received. Last March, ab't nine months after, his foreman comes to my lodgeings, and getting admittance, he tells me he had bro't the coat again, and lays it down on a chair with a paper, which I took to be the bill. I told him I w'd not have it, it did not fit, and throws it, with the paper, down the stairs after him. It was afterwards taken back by the people where I lodged, and delivered at his house. This paper, I have since understood, was a summons, and that the knew I was to leave England in a week or two; of course, being in the first place ignorant, and in the second place absent, judgement went by default; and I have had to pay about £10 to this swindling rascal and in his acc. So much for being at present

£250 st'g a year, which must come to him on the death of [his] father, and a widow, who at present receives fifty pounds a year, which he will not consent to, and I think is right. His father, I am told, gave him money, which you may inform Mr. Morgan, to pay or take up the bill for his passage; but I underst.— and he thought he wanted it very badly himself, and defers it till another time. He has three daughters, and no son yet. I believe the will do pretty well. Plenty of coal ab't Blackbourn. Tell them at Philad'a to get grates and burn coal, and a little short wood in their kitchen; it will be the cheapest and best fire; at the end of the grate, the may have a cast iron oven, with a division in it ab't the middle, fixed with brick on edge. There is an iron plate, 9 inches wide, fixed about a foot above the oven, which on pulling out draws a blaze out of the grate under the oven, and heats it in twenty minutes; on pushing it in the blaze ceases, and it becomes a damper; there is another of the same dimensions fixed a foot below, which on drawing out lets out the cinders and ashes, and acts as a cooler. The are in use in Lancashire, and all over the north; and the women tell me the are the best things in the world for every purpose of bakeing. Now, tell them to be wise with you; and that is to act like honest men, and return me my estate. If the will but think, the must be sensible, there is nothing could exceed the superlative injustice of takeing it away. See, at this time, France and St. Domingo, how friend and foe are flying without being drag'd to any place of shelter the can get to; had the latter been otherwise with me, I think I should have preferr'd the risk of being knocked in the head in America, to going to Europe to starve. Be kind enough, if you have not wrote, and from [time] to time, to let me know what steps you have taken in this matter, and how you are likely to succeed. I believe I may venture to predict to you that it must be restor'd. My kind respects to Mrs. Liddon, and same remembrances to all worthy friends and relations.

I am, with real esteem, yr. friend,

MATTHIAS ASPDEN.

These ovens are ab't 18 or 20 inches square.

98.

Ab'm Liddon, Philadelphia, to Matthias Aspden, London.

PHILAD'A, 11 *mo.* 24*th*, 1792.

RESPECTED FRIEND:

I receiv'd thy favor of the 17th of the 8th mo. last, dated at Bristol, which gave me an account of thy safe arrival and journey to Bristol. I am glad to hear the had a pleasant passage, tho' the met [with] some difficulties; I hope the was not much hurt by the stage's oversetting. I was sorry I was not at home when the went away, as the left a power of attorney for me to act in the recovery of thy estate. I thought the had met [with] so many discouragements from the lawyers here the would not have attempted it; but if the should continue in the same

mind still, the must impower some more proper person to undertake it, as I cannot have any thing to do with the law, therefore have not proved thy power of attorney. I have spoke with thy brother-in-law, James Hartley, concerning the note the mentioned; he says he will not pay it, but that he is willing to leave it to a reference, the chusing one man and he another. I told him I would let the know his determition. If the should have any business here without being concerned in the law I shall be willing to do it for the chearfully. Our family and friends are all in pretty good health at present, and my wife joins me in love to thee.

I remain thy friend,
AB'M LIDDON.

Endorsed—Matthias Aspden, Bath.

99.

Matthias Aspden to Abraham Liddon, Philadelphia.

DEAR FRIEND:

An oppertunity offering for New York, I embrace it to request should the debt due to me be paid to you when this comes to hand, from Josep Shewell estate, you w'd be kind enough to invest it, with any other monies of mine that may come into your hands to within fifty pounds, in either the £6 pr. c'ts, or £3 per. c'ts, defer'd stock, as you may think best, on my account, until you hear further from me. I left in the bank of North America a box or case containing my plate, ab't two hundred fifty ounces; there is a label on it in these words, "plate, the property of Matthias Aspden." There is an entry made of it in the bank books. Should this bank be in cash for my half-brother's, J. H., note, I request it may be invested in same stock, and such further sum as the bank may have of mine in their hands, to within one hundred dollars.

I was yesterday, to begin with, taken with a writ of execution, though conscious I was free from all debt, at the suit of a taylor for a coat made for me two years agoe last May, and not fitting was immediately taken back by the man that brought it, it being so short and so flanting and pinch'd that it could not be let out, telling him I was going to Bath in two days, and if he would make me one that did fit I would take it; instead of this he sends me the same coat down to Bath, wh'ch was return'd and received. Last March, ab't nine months after, his foreman comes to my lodgeings, and getting admittance, he tells me he had bro't the coat again, and lays it down on a chair with a paper, which I took to be the bill. I told him I w'd not have it, it did not fit, and throws it, with the paper, down the stairs after him. It was afterwards taken back by the people where I lodged, and delivered at his house. This paper, I have since understood, was a summons, and that the knew I was to leave England in a week or two; of course, being in the first place ignorant, and in the second place absent, judgement went by default; and I have had to pay about £10 to this swindling rascal and in his acc. So much for being at present

a little in the situation of a prisoner, and drag'd from home at the beginning of the late war. It was the sum I intended to have left this day for the present relief of the poor French refugees.

I am, with respect, your friend,
MATTHIAS ASPDEN.

The taylor haveing the goods, and still haveing them, he could not ground an action without perjureing himself, nor would a writ of ca. sa. legally ***.

The poplar introduced into Pennsylv'a is, as I suspected, the common English poplar. I was the before yesterday at Harrison's nursery grounds, Chelsea, where I saw large plantations of them; the tell me *are* the are most admired and sought after. This, I believe, is from prejudice. The mountain Lombardy poplar is of course hardier, the bark a darker color, and the leaf a deep green, grows lofty and quick, and, I think, the most beautiful of the two. Adieu.

I might say from my cell a 100 feet under ground.

Endorsed—Mr. Abraham Liddon, Philadelphia, pr. the Montgomery.

100.

Memorial of Matthias Aspden to the Judges of the Palace court.

(Case.)

Mr. Aspden, the party aggrieved in the present case, desires to state to the judges of the Palace court the following transaction, wherein he has been wrong'd, he might add, he conceives swindled out of £9 14 6, for any foundation, cause, or ground, Thomas Massey, taylor, the party in the first instance, had for takeing out a writ again him, out of that court which occasion'd it; and prays for such redress in the premisses as he may be entitled too, or in their power to give.

Mr. Aspden, the latter end of May, 1790, or beginning of June, employ'd Thomas Massey, of Hollis street, Cavendish square, taylor, to make him a coat, lodging then at Mrs. Montgomery's, in Craven street, Strand, who recommended him to him. His directions to him was to make him a plain neat coat, to fit easy, and moderately in the fashion—Mr. Aspden (being above thirty,) and intending to embark in the July packet for New York, and from thence to Philad'a, his former place of residence. The coat was made for him (as he supposes,) but too short, and so flanting, tight, and pinch'd in the back and sleeves, that it by no means fitted him, or could it be let out to wear with any degree of credit or satisfaction, or even without appearing ridiculous; and this, without doing injustice to Massey, he now believes was his intention. The coat was return'd by the man that bro't it, after his seeing it tried on, telling him as he had given them this trouble, and the had been unlucky in fitting him, if the would make him another to fit him properly again the day after the next, when he was going down to Bath, or if the would run the risk of this and send

it after him, he would take it. (He is not certain wether he might not have told the man this after making some little alterations to the coat and bringing it to him a second time, but this is not material.) A coat in a deal box was sent him down to Bath, for which he paid 1s. 6 carriage, and 5 more postage of a letter. This, upon trying on, he found to be the same coat that was made for him in London, and return'd. It was again, after trying on, sent back on the same account, and received, he found, on enquiring at his house, on his comeing to town, the latter end of August, (haveing alter'd his intention of going to America that year.) After this he went to Mr. Jones, woollen draper, in the Abbey church yard, Bath, and bought as much cloth, and of the same color, or nearly, as would make him a coat, and had it sent to a taylor who had made cloaths for him before, and fitted him well, and who taken his measure for that purpose to be made up for him, and who had seen the other tried on, and to whom it had been deliver'd to send back, Mr. Aspden haveing then no servant; this coat also, contrary to his directions, was made too short for him, (perhaps to fav'r a weak brother, if not a knavish one,] and so tight and pinch'd in the back and sleeves, that it could not be let out to wear with credit or satisfaction—and had he not paid for the cloth, and been summer time, he would have return'd it. The coat is now in his possession, and his right to do so will immediately appear on his putting it on. His buying cloth at Bath for a coat, in the room of the other, and getting it made up, Mr. Aspden conceives to be ample and full evidence that if the other coat had fitted him he would have taken it, and conclusive that Massey had no ground or cause of action again him, on any pretence whatever; or even supposing he had, it could only be for the damages or loss sustain'd on selling the coat to a third person; and admitting this to be 20s. or 25s., a court of conscience, the proper court in this case, would have given him speedy and ample redress, if entitled to any, without putting him to the expence he did, in which (the judges will excuse him,) he considers himself insulted and rob'd.

Mr. Aspden further states to the judges that it might be the latter end of Feb'y, but to the best of his recollection it was some time in the month of March, 1791, eight or nine months after the coat had been return'd, and but a short time before he proposed leaving England, that Massey's foreman came to his lodgings, in Great Russell street, Bloomsbury, and, on entering his apartm't, lays the coat down on a chair with a piece of paper, which he took for the bill, and goes immediately away, telling him he had bro't the coat again; he call'd to him, telling him the coat did not fit him, and he would not have it; and goes, feeling the insult of haveing a coat repeatedly forced upon him that did not fit him, and takes it up, with the bill, and throws it down stairs after him, the people of the house taking it up, and soon after carried it back and deliver'd at Massey's house, without his hearing any thing further from him. On or about the 2d of Aprill, Mr. Aspden set out for Paris, by the way of Southampton, but being to early for the packet to Havre, return'd again to London; and after near a fortnight's

stay, went in the Paris diligence by the way of Dover, but getting there too late, on account of his first going to Southampton to reach L'Orient in time for the packet sailing for New York, (a desire to see France inducing him to avail himself of that conveyance,) he return'd to London, and remain'd in Charlotte street, Bedford square, from the first of June till the 17th of July, never either seeing or hearing further from this very worthy taylor. He then embark'd in the Harmony, Capt'n Osman, for Philad'a, and, after a stay of ten months, return'd in the packet that sail'd from N. York in July last—an account of this in the papers very possibly being seen by Massey. Mr. Aspden, on was very scandalously arrested with a writ of execution just opposite to lodgeings, without the least notice having been sent him, and much to hi* surprise, as he was conscious of being free from debt, and was obliged to pay the money or go immediately to prison; the officer even refuseing security from his banker till the business could be investigated.

Mr. Aspden further states that the instructions to the attornies, Turner & Turnbull, to sue, and affidavit of the plantiff to the writ, appears, by the bill of costs, to have been on the 29th Decem'r, 1790, two months previous, as has been stated, to his bringing the coat the last time, and its being return'd: to make a party liable for goods, Mr. Aspden understands the must be "sold and deliver'd;" here Massey, the plaintiff, was absolutely in possession of the goods, i. e., the coat; therefore, there could be no debt owing, or cause of action; hence, it is evident that Massey, if not maliciously, has wilfully and corruptly swore to a fact to take out the writ that neither did nor could exist. Suppose a taylor or shoemaker to make a pair of breeches or shoes too little for a customer, could he be compell'd to take them? The answer w'd be, certainly, no! This will equally apply in his case with respect to the coat.

Mr. Aspden further states, he is a native of Philadelphia, and although well affected, was unwillingly bro't to England soon after the commencement of the late unhappy war, and intended to have returned and resum'd his former mercantile engagements had the terms of the peace permitted; is at present possess'd of a moderate fortune, which the books at the bank will shew, and always been strictly punctual in his payments; that he never, to his recollection, ever heard of the Palace court untill he saw the writ of execution the officer had who arrested him; and, therefore, as one in common with others that might stand in need of its protection, and of course amenable, where liable, he would been far from slighting or shewing any disrespect to its authority or jurisdiction; nor did he, or could he, conceive (without supposing perjury) he was liable, in the present case, to be summon'd from that or any other court, or otherwise he certainly w'd have appear'd either in person or by his attorney, and shewn cause why the writ should not have issu'd, or judgement gone again him.

Mr. Aspden has lately been inform'd the paper he took for the bill

bro't with the coat, i. e., the goods in possession, was the writ of summons, and taken back with the coat.

Mr. Aspden, previous to his coming to England, had served on several grand and special jurys for the city and county of Philadelphia, decideing in the latter case as chancellors, (for want of a court of chancery,) and therefore may be supposed not unacquainted how a verdict, in the present case, would be given, if it had or could be bro't before a jury. Independent of its being a false action, Mr. Aspden apprehends judgment again him may be revers'd or set aside, for error in proceedings.

101.

Matthias Aspden, London, to Abraham Liddon, Philadelphia.

LONDON, *Feb'y* 1, 1793.

DEAR FRIEND: I duly received your kind letter of the 24th of Novem'r, acknowledging the receipt of mine from Bristol, acquainting you of my safe arrival in England. By your letter I see you make an objection to undertaking any business where law is concerned. Your scruples or mistakes in this matter I will no further attempt to remove, than the precepts of our great lawgiver, under the new dispensation, justify me; for example in that respect he furnished none; when our Saviour was asked whether it was lawful to pay tribute unto Cæsar, and the silver penny was shown him, he told them to render unto Cæsar the things that were Cæsar's, and unto God the things that belongeth unto God; meaning here our obligations unto God are of one sort, and those unto the State of another, and is in fact a command to render unto God the things that belong to God, and unto the State, or individuals which compose the State, or are under the protection of its laws, the things that belong to the State, or such individuals respectively. And in the text were he says if any man will go to law and take thy cloak, let him have thy coat also; as much as to say, if any man, by an unrighteous judgment, under the letter of the law, can take thy cloak, here take my *cloak* also, for you have, to express the true sense of it, as much just right to one as you have to the other, or cost of it; for we cannot suppose the Jewish law, any more than our own, permitted one man to really strip another of his raiment, or any part of it; "if a man asks thee to go one mile, go with him twain," this text as well as the preceding is metaphorical, figurative, and relative, and so I conceive to be understood. To rightly understand the scriptures, we must not go according to our convenience, but considering the intent according to the fair and sober meaning of them, rendering our obligations as they may be respectively due to God and the State; the laws of the latter as well as the necessity of civil government being only for evil doers, and it gives me concern to add, the giver of the note in question has been one.

I am sorry you did not advise me by the August packet, or some early opportunity, of the scruples that *has* prevented you from acting

in this business, as I then could have sent out by the Sept'r or Oct'r packet a fresh power, and saved considerable time. I flatter myself, however, my subsequent letters from hence in those months has led you to alter y'r mind in this just business, and to undertake the same, or, as the power I left gives authority, empower'd some friend to act in your place, or put the business into the hands of some council, which was all there was to do, as the papers left in your hands speak effectually to the point in question, without your further appearing or saying in the matter. I would only further observe, that had I rendered myself under the proclamation I could not have been put on my trial. The executive council having exceeded their power in requiring me to render myself; likewise did the house of assembly exceed their power, for the same reason, in declareing I should stand and be attained of high treason if I did not appear; this makes the act of assembly, as well as the proclamation, void, and both a nullity, with respect to myself. Had not J. H. been my half-brother, although a step or brother-in-law in conduct, there is no doubt among my acquaintance I could have found friends to have left my affairs with, both more able and faithful to have acquainted, for I can hardly suppose him unacquainted with Chapman's case, and my real situation und'r the laws of the State, which if I had been duly informed, much time would have been saved that has been uncomfortably pass'd and wasted, and I should have got my estate long agoe; as it is evident from what I have stated above, that the confiscation of it was in violation of the laws of nations, as well as contrary to the treaty of peace; and on this account I am satisfied in the ultimate it will be restored.

In order to remove every pretence to my half-brother paying the note, I agree to deduct, or if the same sh'd be paid, to allow him for my board from May, 1776, to Sept., 1776; his expenses, if not charged, going with me to New York and to Maryland, and either to send him or allow him the price of a handsome coffee-pot. Independent of what he may have of mine, or had, and what I have suffered thro' his ignorance or wilfullness, the services I have rendered him has been much more than equivalent, without going into a recapitulation of particulars at this distance of time, to any he has rendered me. Here I will rest the matter, trusting as you know how far we are bound in mutual good offices, you will on further consideration of the matter undertake the needful. With respect to the debt due to me from Joseph Shewell's estate, I will, on the children's acc't, without being hard or any way oppressive, although advantage was taken by J. S. that should not been done, agree to any settlement or compromise that you or any well disposed person may think reasonable. J. H's bond, as you do not mention it, I flatter myself has been settled. With my best respects to Mrs. Liddon and friends with you,

I am, with real esteem, y'r friend,

MATTHIAS ASPDEN.

I use the term lawgiver as it applies to our state here; with respect to our moral and civil conduct, "do as you would be done by."

Herewith you have a paper which contains the news of the day, and price of corn and flour at Bear Quay. Should any friends be disposed to address a few cargoes to me of either, when the port opens, the best that can will be done for the interest of the concern'd in my power. But they say people comeing from abroad to engage in business in England, something like what *the* call carrying coals to New Castle.

At the register of will's office I found the administrators to Jos. Shewell's estate had accounted for debts paid to the amount of £900, which inclines me to think *the* have in their hands the debt due to me from the estate, as the account had been duly rendered.

At Halifax I observed the roofs of their houses are flat, nearly to a level; if you should mention this, *the* will perhaps tell you there is no snow falls there. Some body in N. York had the impudence to tell me there was no architects in Philad'a, only carpenters; do mention this to the builders there.

The distractions and massacres in France are melancholy; not unlikely, as things are going on, the Prussians and Austrians will divide that kingdom.

As the late unhappy war has made an alteration I could see, in morals in America, I will be obliged to you in confidence to say what are the respective characters of my half-brothers' and sisters' children, Phil'a and Jerseys, and how *the* conduct themselves, as far as you can, and how *the* conduct themselves; these were particulars I could not well hear when in America; the girls that are single particularly.

Endorsed—Mr. Abraham Liddon, Philadelphia. Pr. the Rochampton, Aiken.

102.

Matthias Aspden, London, to Abraham Liddon, Philadelphia.

LONDON, *March* 4, 1793.

DEAR FRIEND: Herewith you have copy of my last; have since been without a line from you, although we have had several arrivals from Philad'a at Falmouth, or any other friend, which I am rather concerned at.

Madness and folly has occasion'd another war to commence between England and France. My idea that there was no cause for war, and having had for some time a pretty large sum laying at my bankers, led me to buy in £1,000 5 pr. ct., and £300 3 pr. ct. stock, which were I [to] sell now I should lose near £200. This will induce me to alter my plan of purchase as I intended; hitherto you will see I have not flourish'd under the rose, whatever pretension I may have. I yesterday call'd to see, in Newgate, Mr. Tho's Boleyston, of Boston, whom *the* want [to] bring in as a sleeping partner in the house of Lane, Son, & Fraser, lately fail'd; or if this won't do, to milk him for lending

them money at an usurious interest. So much for being a stranger and friendless.

I am, with esteem, y'r friend,

MATTHIAS ASPDEN.

Duke of Richmond, En la rose je fleurie.

Commissioner D. P. Coke I believe is a Piluen. Have you any relations in England? No. What had this to do with loyalty or claim?

Endorsed—Abra'm Liddon, Philadelphia. (Loxley.)

LONDON, *Feb'y*, 1793.

DEAR FRIEND: I duly received your kind letter of the 24th of November, acknowledgeing receipt of mine from Bristol, acquainting you of my safe arrival in England.

By your letter I see you make an objection to undertake any business w*ere* law is concern'd. Your scruples on this head, or mistake in this matter, I will no further attempt to remove than the precepts of our great lawgiver, under the new dispensation, justify me; for example in that respect he furnish'd none.

When our Saviour was ask'd wether it was lawfull to pay tribute unto Cæsar, and the silver penny was shown him, he told them to render unto Cæsar the things that were Cæsar's, and unto God the things that belongeth unto God; meaning our obligations unto God are of one sort, and those unto the State of another; and is in fact a command to render unto God the things that belong to God, and unto the State, or individuals that compose the State, or are under the protection of its laws, the things that belong to the State, or such individuals respectively. And in the text, *were* he says, if any one will go to law and take thy cloak, let him have thy coat also; as much as to say if any man, by an unrighteous judgment, under the letter of the law, can take thy cloak, here take my coat also; for you have, to express a true sense of it, as much just right to one as you have to the other, or cost of it; for we cannot suppose the Jewish law, any more than our own, permitted one man to really strip another of his raiment, or any part of it. If a man ask thee to go with him one mile, go with him twain. This text, as well as the preceding, is figurative, metaphorical, and relative, and so I conceive to be understood. To rightly understand the scriptures, we must not go according to our own convenience or any partial sense, but, considering the intent or design according to the fair and sober meaning of them, rendering our obligations, as the may be respectively due, to go to God and the State. The laws of the latter, as well as the necessity of civil government being only for evil doers, and gives me concern to add, the giver of the note in question has been one.

I am sorry you did not advise me by the August pack't, or some early opportunity, of the scruples that *has* prevented you from acting

in this business, as I then could have sent out by the Sept'r or Octb'r packet a fresh power, and saved considerable time. I flatter myself, however, my subsequent letters from home in those months has led you to alter your mind on this just business, and to undertake the same, or, as the power gives authority, empower'd some friend to act in your place; or put the business into the hands of some council, which was all there was to do, as the papers left in your hands speak effectually to the point in question, without your further appearing or saying in the matter. I would only further observe, that had I render'd myself under the proclamation I could not been put on my trial, (not being a subject.) The executive council on this account having exceeded their power in requiring me to render myself; likewise did the house of assembly exceed their power, for the same reason, in declareing if I did not appear I should stand and be attainted of high treason. This makes the act of assembly, as well as the proclamation, void, and both a nullity with respect to myself.

Had J. H. not been my half-brother, (although a step or brother-in-law in point of conduct,) there is no doubt among my acquaintance I could [have] found a friend to have left my affairs with, both more able and faithfull then he has proved himself to be; for I can hardly suppose him unacquainted with Chapman's case, and my real situation under the laws of the State, of which, if I had been duly inform'd, much time would have been saved that has been uncomfortably pass'd and wasted, and I should have got my estate long agoe. As it is evident, from what I have stated above, the confiscation of my estate was in violation of the law of nations, as well as contrary to the treaty of peace, and on this account I am satisfied, in the ultimate, will be restored.

In order to remove every pretence to my half-brother paying the note, I agree to deduct, or, if the same should be paid, to allow him for my board from May, 1776, to Sept'r, 1776; his expences, if not charged, of going with me to New York and Maryland; and either to send him or allow him the price of a handsome coffee pot. Independant of what he may have or had of mine, and what I have suffer'd thro' his ignorance or wilfullness, the services I have render'd him has been much more then equivalent, without going into a recapitulation of particulars at this distance of time, to any he has render'd me.

Here I will rest the matter, trusting, as you know how far we are bound to mutual good offices, you will, in further consideration of the matter, undertake the needfull.

With respect due to me from the estate of Joseph Shewell, I will, on the children's account, without bearing hard or any way oppressive, although an advantage has been taken that ought not to have been taken, agree to any settlement or compromise that you or any well-disposed person may think reasonable. J. W.'s bond, as you do not mention it, I flatter myself has been settled. With my best respects to Mrs. Liddon, and remembrances to friends with you,

I am, with real esteem, y'r friend,

MATTHIAS ASPDEN.

N. B. I use the term the lawgiver, as it applies to our State here; with respect to our moral and civil conduct—

"Do as you would be done by."

Herewith you have a paper which contains the news of the day, and prices of corn and flour at Bear Quay. Should any friends be disposed, when the port opens, to address a few cargoes to me of either, the best that can will be done for the interest of the concern'd in my power; but the say people comeing from abroad, to engage in business in England, is something like what the call carrying coals to New Castle.

At the register of will's office I found the administrators to Joseph Shewell's estate had accounted for debts paid to the amount of £900, which inclines me to think the have in their hands the debt due to me from the estate, as the account had been duly rendered.—(Copy.)

103.

Abraham Liddon, Philadelphia, to Matthias Aspden, London.

PHILAD'A, *5th mo. 4th*, 1793.

RESPECTED FRIEND: I received thy kind favours of 2d mo. and 3d mo. 4th, 1793, and must acknowledge I have been wanting in not writing to the sooner. I called on thy half-brother, J. Hartley, and informed him of the proposals of thy letter of 2d mo.; he says he will pay the ballance imediately on leaving it to any two men, and they saying what is comeing to thee. I am surpris'd the did not settle those difficult ac'ts thyself when here. I believe the will not get any thing from either J. Shewall's estate or J. Wharton's bond. I called on Benja. Gibbs, a few days ago, who was so unwell as not to be spoke with, and was informd he was quite blind. I should be glad if the would impower somebody else to transact thy business, as my own takes up what little time I have to spare. As for thy estate, I think the had better get what is offer'd the in England then to trouble thyself about it here. The war in Europe, we understand, is like to cause a many failures there, and I fear will affect our merchants materially. America remains quiet and peaceable, and if our rulers are wise will still remain so. Our family and all friends are well. With wishes for thy welfare every way, I remain thy loving friend,

ABM. LIDDON.

Endorsed—Matthias Aspden, to the care of Henry Hoare & Co., bankers, London.

104.

Matthias Aspden, London, to ———.

LONDON, *June* 30, 1793.

DEAR SIR: To preface a little before I begin, I will just say, I am

led, first, simply from the intrinsic justice of my cause. 2ndly, from the absolute right I have to the estate in contest, which the parties in possession I am induced to think must be conscious of, and which I believe is admitted by every impartial person through the States, to whom the facts are known; and rights you know may be taken away, but cannot be given up. 3dly, I am led to give you the trouble of the inclosed power of attorney in this case, first, because I would do an act of fair justice here (and think myself bound,) to a person on your side the water; or where I on y'r side, to a person on this; and that you in this respect think as I do, and will be willing to act for me; 2dly, as you are of another State, that there will be fewer difficulties in the way, and as your State has acted on principles both wise and liberal with respect to former citizens, in considering them if the did not appear agreeable to notice, as alien enemies, and incurring forfeitures accordingly, and in this on principles strictly national, having in view, I conceive, the manner in which American vessells were confiscated under the prohibitory act, to wit, as the property of enemies, which was placing America upon a footing independence, or considering them as a foreign nation; happy would it have been for Pensylvania, had one or two been considered with an eye of less indulgence, and that State had acted in the same wise manner; some lives would been saved, an equally good effect answer'd, and the ruin of many valuable citizens prevented, some of whom (as for instance I may say myself, who had not a choice in the case,) were so greviously sufferers by the other side, to be rob'd and persecuted again on that, and particularly in the cruel manner I have been, for I have great reason to believe that the commissioners here, from the means posses'd of information, must have known that my estate neither was nor could be legally forfeited, from the laws of the State and several adjudged cases in point, to wit, Chapman's, Buffington's, and Andrew Elliott's of New York, yet very inhumanly kept me in suspense till the close of the enquiry, five years or near it, refusing to explain the cause, which alone would satisfy me; expecting I might find it out, or that the property would be restored to me, I suppose.

When I left Philad'a I left a power of attorney with Mr. Abm. Liddon of that city, whom my father, from an opinion of his being an honest man, left an executor of his will; of course, as he must have some knowledge of my affairs, I considered him, on this and other accounts, a proper person to leave a power with; but from scruples he writes me he has, of haveing any thing to do with business where law is concerned, he must decline acting for me. With respect to the restitution of my real estate, I think there will be no need of going much to law. See Andrew Elliot's case of New York, or steps taken by him. I should think a representation made to the judges of Federal court, or supreme court of the State of Pennsylva., that I was not a subject (nor an inhabitant of the State of Pennsylva., nor of any of the States,) when required to ren-

der myself at the hazard of the sea, risk, and capture, (if I was the party really meant,) and therefore, if I had appealed, could not have been put on my trial for the treason alledg'd against me. Of course, the executive council exceeded their power in calling upon me, (if I was the person meant,) to render myself for trial. And also the house of assembly the same, or the act extending the time of appearance, in saying, if I did not appear, I should stand and be attainted of high treason, (a person not a subject,) by the authority of that act of assembly; as it is evident here, the assembly must have gone upon the foundation of the proclamation, which had none; and where there is no foundation, the superstructure falls of course, and makes the proceedings void. I embarked at New Castle, on the Delaware, in an American vessell, on the 19th or 20th Septem'r, 1776, for England, by the way of Spain, on lawfull business, and was never after in America, till July, 1785, therefore could not have join'd the Brittish army, another count; and if I had been a subject, unless I had committed that sin, I could not [have] been guilty or offended again the act. Where property has been so wantonly, cruelty, and injuriously taken away, I think the credit of the Union is concerned, that it should be restored, and justice done. See the case I published in Dunlap's paper, May 30, 1792. Or if this step will not do, a writ of ejectment may be brought to obtain possession, which will bring the matter at once to issue. I left with Mr. Liddon a bond of Mr. Joseph Wharton's, of Philad'a, for £284, given in 1774; also an acc't again the estate of Mr. Joseph Shewell, of Philad'a, for £465 12s. 4d., which was incurred on account of rent, made out by and delivered by my half-brother, James Hartley, who let the house to him. The executors of Mr. Shewell's estate are Mr. Benj'n Gibbs and Mr. Tench Cox, who in their acc't made up and rendered at the register's of will's office, I am inclined to believe from the am't of the debt the estate is charged with, have charged this debt, as an account was duly rendered, and now have the money retained in their hands, under a pretence of its being forfeited, and may be claimed. I left also at the Bank of Philad'a a note for £254 6s. with my endorsement on the back of it, given to me by this same half-brother, who afterwards, when it became due, refused to pay it, and trumpt up a very scandalous acct. to the amt. of £178 3s. 3d., I am concerned to mention, which he wanted to have left to men. When this note was given, the money was offered to be paid, and also afterwards, but as I was not in immediate want of it, I declin'd it untill it came due, as he then would be in cash, or would have a right to charge interest on a note given him for this exact sum by Mr. Isaac Hazelhurst, of Philada., the same being given or paid to my half-brother on acct. of a bill of exchange of Mr. Robt. Morris, of Philada., sent to me in the year 1787, and returned protested; and amounted, with interest and damages on settlement, to £254 6s., for which Hazlehurst's note was given. I would just remark here, that his behaviour to me, from the time of my arriveing untill I left his house a little before Christmas, 1792, was highly unworthy, which led

me, as I was then going to New York, and perhaps from thence to England, to get my plate *out* of his hands, and send it to the bank, (where it must remain,) also my deeds, and to settle with him, takeing the note here mention'd, and giveing him a receipt, specifying what it was for; and also another receipt in full for £30 cash, this being the am't of a debt received by him due me, since rendering me his last acct. curr., and sending me a bill for the ballances. In this sum of £30, I settled with him for my board, also for a hamper of cheese he had paid for me, and some other little triffles, and received the ballance, five or six pounds, of him in money. His first acct. currt. rendered me, is dated May 14, 1784, ballance in my favr. £235 10s. 1½d. curr'y.; his last acct. currency, Feb'y 10, 1789, ballance in *in* my fav., £30 curr'y, for which a draft was sent me for the ball'e; all these particulars and facts are full evidence and proof that he was in my debt, and that acc'ts between us are settled; and that he can have no demands on me but what are false and fraudulent; the one he has made being principally for the brotherly charge of commission; remarking here as per contra, that I have received moneys here for him, ship'd him goods, and done him many acts of kindness that were fully equivalent to any or all the services he has done me, exclusive of sundry things he has of mine in his possession, or considering how much I have suffered thro' his unfaithfullness or ignorance. The only pretence he has to urge for making this charge was my sending for a silver coffee-pot on my return to Philada., and going into lodgeings *were* it was only convenient to give a dish of coffee and a glass of wine to a friend that might call of an evening to see me; and this I look'd upon as very fair, as he had very good copper breakfasting coffee-pot of mine in his possession, and as I might very properly deem it a lapse legacy, as his wife, to whom I had given it, or the use of it, was dead. I nevertheless acquainted him, that I would either return it or give him another in due season; and accordingly, to be as good as my word, wrote to my friend Liddon to allow him, in settling the note, the price of a handsome coffee-pot, or I would send him one; and also for my board at his house from May, 1776, to Sept'r, 1776; to this I still keep. The papers here mentioned are in Mr. Liddon's, who will deliver them to your order, who I hope will be a safe one. Chief Justice Mr. Mason, acting as attorney with Mr. Physic for Mr. Pen, has led me to think there would be no impropriety in sending a power to you; from some part of this letter you will see it was intended for a friend in the State of Maryland; leave out those parts, and the rest will come with propriety to yourself; his remote situation, added to the necessity he would be under of employing a third person in Philad'a, has led me to think, since writing, it might be *to* inconvenient for him to act. And as you are differently situated in this respect, and still of another State, which makes you a disinterested party, that a power sent to you would be more suitable and proper, and hope from the good understanding that has been between us, and our fathers before us, you will have no objections to act under the

same, and to do the needfull, for which every necessary expence will be paid, and such compensation made as you may desire.

105.

Matthias Aspden, London, to Mrs. Harrison, Philadelphia.

LONDON, *June 30th*, 1793.

SISTER: The foregoing (or enclosed) letter was intended for Joseph Cooper, sen'r, opposite to Philad'a, but upon taking the matter again into consideration, and as there is little intricacy and no need of much trouble in the case, I have concluded on sending the power to you. You have only need to send to Mr. Ashton Humphries, Peter Thompson, or Hillary Baker, or to call on Mr. Lewis or Cox, or the perhaps will wait on you, or any other council whose eyes are open to conviction, and show them the enclosed letter, and refer them to Dunlap's paper of the 30th May, 1792, and ask them if the will undertake to bring the matter to issue before the proper authority, (for I am decided with respect to right,) to recover the identical property, or sue the State for the damages; for a man under those circumstances, and an innocent man, to have suffer'd death in Pensylv'a, would have been such an indeliable stain on the Government, that no time could have wash'd away. Or if the property should be restored, what is the value of it compared to the injury and suffering I have experienced in other respects. I propose, if I can, to return in August, if not in the spring. Should any money be paid, I w'd have it laid out in the three pr. c't. defer'd or six pr. cent. stock, as may be best, although I am doubtful things are tending to a rupture.

I am, your affect'e broth'r,

MATTHIAS ASPDEN.

P. S. My plate I would have to remain in the bank.
I will just observe my estate paid taxes during the war.

Endorsed—Mrs. Mary Harrison, in Philadelphia.

106.

Matthias Aspden, London, to Ab'm Liddon.

LONDON, *June 30th*, 1793.

DEAR FRIEND: I am favor'd with your letter of the 5th ult., and am sorry to see that you are amused with the seeming fair proposal of my half-brother's, to leave a settled acc't to two indifferent men. If there had been any thing to leave, I would have done that before I left Philad'a; but as there is not, for if I make no charges for services render'd on my side, he certainly has no right to make any charge of services render'd on his; and that all matters are mutually settled between us on this head, his two acct. currents, ballance of each in my fav'r, the receipts that pass'd when in Philad'a, and the giving this note, are full proofs. The offer I made him, and to which I still

keep, places him in a better situation than before the coffee pot was return'd, the latter being the only pretence he can urge for his trumpt up acc't; therefore, if he will persist in his refusal to pay the note, a court of law and equity is the only proper authority now to leave it to a reference, and as the possess power, the are best judges in the case. I have, by this conveyance, sent a power of attorney to my half-sister, Mary Harrison; should you have declin'd acting through the medium of a third person, who, I hope, as there is no intricacy in the matter, will be able to do the needful through a channel of that kind, and to whom you will please to deliver the necessary papers left with you. With remembrances to all friends and relations, I am, with real respect, your friend,

MATTHIAS ASPDEN.

To Mr. Abra'm Liddon, Philadelphia.

107.

Matthias Aspden, London, to Cashier of Bank North America.

London, *June 30th*, 1793.

Sir: By a letter dated the 5th ult., from Mr. Abra'm Liddon, of your city, with whom I left a power of attorney, a few days before I left Philad'a, in July last, to act for me, but who declines it, I am inform'd the note of my half-brother, James Hartley, enter'd at short credit to my acc't, has not been paid, a matter of some surprize and concern to me, as I cannot suppose it to be thro' any want of ability, and as the transaction was a very fair and just one. I have by this conveyance sent a power to my half-sister, Mrs. Mary Harrison, of your city, who, I hope, through her attorney, where it may be required, will be able to do the needful in my affairs. Should silver fall, which is expected, in price, have it contemplation to ship some dollars to invest in funds of the States, which, I hope, will be wise enough to be content with picking the bone in the present crisis. It is my desire that my plate which I sent to the bank previous to my leaveing Philad'a, and is enter'd in your book of deposits, continue there, untill you have my order for its further disposal.

I am, sir, your obed't serv't,

MATTHIAS ASPDEN,

To the Cashier of the Bank of North America, in Philadelphia.

108.

[Note.—This letter, No. 108, has been misplaced, owing to the obscurity of the handwriting. The proper date is August 17, 1792; the letter should immediately precede letter No. 97, on printed page 500.

G. P., *Cl'k.*]

Matthias Aspden, Bristol, to Ab'm Liddon, Philadelphia.

BRISTOL, *August 17th*, 1793.

DEAR FRIEND: This place laying not more than five or six miles out of my way, and the stages running thro' it, I was led to take it in my route, and came here last night. I left New York on the 5th ult., arrived at Halifax on the 14th, sail'd from thence on the 18th, (where I was politely treated by Governor Wentworth,) and arrived at Falm'th on the 9th inst., after an easy passage of 22 days; got soundings on the 16th day, and afterwards kept out by a calm, succeeded by a strong easterly wind. Paid for my passage the immoderate sum of thirty-six guineas, and two guineas more to the steward and people—to the two soakers who were my fellow passengers, one of the name of Potts, who is in the post office in Lond'n; the other, Miller, a Scotchman, who has a store I believe in Virginia, it might not have been too much; and to whom I owe *I* but little on the score of condescension or good manners; who upon Mr. Hartshorn and family leaving us at Halifax, who had come with us from N. York, took possession of the two state rooms, to which, as their application for a passage was prior to mine, I could make no objection to, on the ground of right, further then being a bad sleeper, which I believe the were not unacquainted with, I should have preferr'd one of the state rooms to a cabbin in the steerage, where we dined and sup'd. Had I been in their situation, and either of them in mine, I think I should been less tenacious, and shown more consideration; however, being only passenger, I managed it along pretty well. Still as I have experienced many inconveniencies in coming round this way, as well as considerable and unnecessary expence, I cannot help thinking myself very cruelly treated in those friends makeing the agreement the did with Capt. Roberts, and disappointing me of a passage, not only with him, but in the other vessells that were sailing for England at that time; after what I had said to Capt. Roberts on the subject, desired him to inform them. My property was honestly come by, and have people enough to give it to, without throwing it away.

As this is a time of the year when the city, as well as the other of the end of the town is very thin, I propose, as I shall save full a hundred mile by it, to go on immediately into Lancashire, and return to London the first week in Sept'r thro' Nottingham. The business I left in your hands I flatter myself you will attend to; in our dependant situation as men, we stand in need of the aid of mutual good offices; if you render me services at one time, it may be in my power to render you services at another; and in the present case, if either the credit of the State or Union is consulted, or doing me justice, very little trouble will attend it.

I left my unworthy half-brother's note for £254 3 at the Bank of N. A. in Philad'a, which as it was endorsed when I left it there, and had three months to run, and might have been in circulation, I did not like to take it out of the bank again, but desired Mr. Wells on that acco't to give direction to the bank solicitor or council to bring an action for

the recovery of it, which I trust will be done, if not paid; otherwise do you be kind enough to do the needful. You may let my nephews J. H., A. H. and their sisters, and the others know, that I shall keep them in remmembrance, however I may feel and be concern'd for the misbehaviour of some. When any of the girls marry, be kind enough to let me know.

With my kind compliments to wife, and remmembrance to friends, not those who put on new faces, perhaps because I had not been rascal enough in prison and in banishment to take to myself a rib, add to my own, and more than probable from prospects, make another that was happy miserable. What is the cause the Africans in the islands and Carolinas do not increase without recruits from Guinea?

Doctor Rush may be a good casuist to apply to in this case.

The season in England, I am inform'd, was wet until the latter end of July. It is now fine, and harvest likely to be favorable. All is orderly and quiet here; and, as usual, as busy as bees.

I am, with regard and esteem, your friend,

MATTHIAS ASPDEN.

P. S. About five miles from this city the coach I was in with a lady and another gentl'n, and three or four outside passengers, overset just on the riseing of a bridge, from the horses being frighten'd at a wheelbarrow with an empty hhd. on it comeing over, and turning short round. An outside passenger was very badly hurt. I got my head a good deal broke, from comeing with much force again the roof and corner of the carriage; the lady a little frighten'd; that was all. So you see there is risk in travelling by land as well as by water. Believe me, I could been content in my own native land.

I came here on the 15th, and set out at 7 this evening, in the mail coach for Birmingham; hope we shall [have] better luck then in the last.

109.

Matthias Aspden, London, to James Hartley, jun., Haddonfield.

LONDON, *Sept'r* 21, 1793.

DEAR NEPHEW: As you were expressing a desire when I was at Haddonfield, that you wanted a stove, and as a little memento that I have not forgot you at this distance, I have here enclosed you a draft on the bank at Philad'a for twenty dollars to buy you one. I did intend to have return'd to America in August last, but finding it not convenient, have defer'd it until spring, when I hope it may suit me. In the mean time from the right I have thereto, hope to hear my estate has been restored. You will give my love to your sisters, brother, aunts and cousins. I am affect. y'r uncle,

MATTHIAS ASPDEN.

TO JAMES HARTLEY, *jun'r*, *Haddonfield.*

Endorsed—To Mr. James Hartley, jun'r, Haddonfield, State of Jersey. Arch street. Pr. the Mohawk.

110.

Matthias Aspden, London, to James Hartley, jun'r, Haddonfield.

July 14, 1794.

DEAR NEPHEW: On my leaving Philad'a two years agoe I left a power of attorney for Ab'm Liddon, (then absent,) to act for me. He soon after wrote me that he was not free (to my surprize) to act in any business *were* law was concern'd; in consequence of this advice I sent by Capt. De Hart, a twelve month agoe, a power of attorney to my sister Mary Harrison, to act for me, whom I am apprehensive is dead, as I have not since heard from her. This has led me to send by this opportunity two powers to Philadelphia; one to my friend Thomas Morris, brewer; the other to my friend Joseph Sims, merch't, to act for me in case it sh'd not be convenient to Thom's Morris, to whom I hope it will, as he may be more accustom'd to business of something of this kind, and more [at] leisure to attend to it, then Joseph Sims. Should it happen not to be convenient to either, I would have you act under the power enclosed, which I believe will be sufficient for the purpose, and to consult the above mention'd friends, and any others, on proper steps to be taken. James Kinsey, at Burlington, gave me disinterested advice when there in 1785, and might be a proper lawyer to employ; or —— Lewis, in Philad'a, to whom I believe if I had at that time gone to, instead of Ingersol, I should not have come away.

I broke up housekeeping in April, 1776; then embark'd, intending for England on lawful business, and finally left that country, (State of Pensylv., &c.,) the Sept'r following. From that time, or period, I became no longer an inhabitant (of Pensylvania,) of course that plea fails. The treason law in Pensylv'a, or law declaring what shall be treason, pass'd six months after; which says all persons now inhabiting, do owe, &c.; therefore neither the council nor assembly of the State of Pensyl'a had any power or authority to call upon me, or to declare me a traitor. This adjudged cases *has* settled and proved, and is sufficient, if justice is to be obtain'd, to recover my estate. The privation of right has been the grevious and injurious circumstance.

An action will lay again the estate for the recovery of rent and damages, of which persons on the spot must be the best judges. Also writs of ejectment again the tenants.

You may propose or agree with the lawyer you employ, to give him a certain reasonable sum on recovering the estate, or doeing the business, which shall be duly paid, and every other expenses you are at; these I can conclude you will let be as moderate as you can. Give my love to your sisters, brother, aunts, and cousins; hope the are deserving; and to your uncles that are worthy.

I am, affection'ly, y'r uncle,

MATTHIAS ASPDEN.

Ab'm Liddon, should you act, has papers respecting debts that you will want, and which he will give. Your uncle James I hope has

paid his note. I should have return'd this summer to America, but for the chances of capture, and doubtfulness of a war with America.

Direct to me, London, or to the care of Henry Hoare & Co., bankers, London.

The power is witness'd by the two mates of Geo. Barclay; also by Capt. Collet and Josiah. My name sign'd at the bank may be sufficient proof.

Hope you got the Bible?

Endorsed—Mr. James Hartley, Haddonfield, State of New Jersey.

111.

Jos. Sims, Philadelphia, to Matthias Aspden, London.

PHILAD'A, 4*th Novem.*, 1794.

MATTHIAS ASPDEN, esq'r.

SIR: Your esteemed favor of the 14th July last. I rec'd a few days since, inclosing a power of attorney from you to act in your behalf in respect to the recovery of your estate. I am much obliged to you for the confidence reposed in me, but am under the necessity of declining to act under the said power, my present engagements being such as to engross the whole of my time; and to undertake and not pay the necessary attention to the business, would be breaking through a rule which my endeavours are strictly to adhere too.

I am, most respectfully, sir, your most obed. hum. serv't,

JO. SIMS.

Endorsed—Matthias Aspden, esq. To the care of Messrs. Henry Hoare & Comp'y, London.

112.

Thos. Morris, Philadelphia, to Matthias Aspden, London.

PHILAD'A, 11*th mo.*, 1794.

ESTEEMED FRIEND: Thy favor of the 14th of July, was (with the enclosures) lately handed to me. I am obliged by the proof of confidence on thy part intended, but for several reasons am under the necessity of declining the offered trust. My not accepting it, I hope, will be of no disadvantage to thy affairs here, as by thy letter it appears powers of attorney are lodged with several other persons, whom I believe to be more equal to the business than myself. I trust that by this time thy apprehensions respecting hostilities between Great Britain and this country are removed, being myself persuaded that the interests of both will be best promoted by a mutual interchange of good offices, and well convinced that the inclination of the judicious on both sides, and particularly of our executive, are in favor of such a system. Supposing this opinion to be well founded, it will be likely that thou

wilt not be long in resolving to come to America. By this step I hope thy business will be brought to a happier conclusion than is reasonably to be expected from the agency of any other person.

With sincere desires that in the prosecution of thy claims ample justice may be done, I am thy real friend,

THOS. MORRIS.

Endorsed—Matthias Aspden. To the care of Henry Hoare & Company, Bankers, in London. Pr. Adriana.

113.

Matthias Aspden, London, to T. Morris, Philadelphia.

LONDON, *March* , 1794.

MR. THOMAS MORRIS, PHILADELPHIA.

RESPECTED FRIEND: I have the pleasure of your fav'r before me of the 5th of Novemb'r, which informs me of the receipt of my letter to you of the 14th of July last, with the enclosures therein, and of there being reasons that make it not convenient for you to act in the trust requested. I have the same answer from our friend Mr. Joseph Sims, and am perfectly satisfied, from the mutual obligation we are under of rendering good offices one to another, of his and your willingness to serve me in this very just business were you more at liberty from your respective engagements. I am sorry it happens so, from the security I have in your probity and abilities to the undertaking. I will, nevertheless, flatter myself some of the reasons which may have induced you to decline the trust may be oweing to the power I sent to my nephew, or to that I left with our friend Ab'm Liddon, on my leaveing Philadelphia—this, as I have no letters from either lately, I shall conclude to be the case, and expect to hear soon. I will only add, to come within the power and protection of the State, the parties must be subjects; and from the manner this supposed attainder of me has operated, and handle that has been made of it, it has proved an act that was inhuman, as well as illegal and tyrannical. So much for a nullity, ariseing from a false suggestion, and in two counts. This, I can make no doubt, will be sufficient to interest every free citizen of Pensylvania to see me righted, and the persons in the unlawfull possesion of my property speedily ousted. I flatter myself it will be convenient for me to return to my native land in the course of the summer. Whatever views I might have had ten or twelve years agoe in returning, of reinstating myself again in my former business, no views of that kind will influence me at this time, although very laudable; nor shall I be led by any of ambition; offices I shall always be glad to see well filled, but never wish to fill one myself, unless the duty comes in turn; I then should be ready to serve, (unless desired by others who could serve as well,) from the interest I have in the public welfare in common with

others. The principal inducement now is a desire to live again among old friends in my native country, and if not a citizen of the United States, to acquire to the right of one, and thereby the right of holding freehold property and sufferage. In this (from long privation) the false attainder has operated cruelly, and in holding but a person to be a traitor who was none. The treaty of peace was no less base, from the stipulation to recover debts virtually forfeited from ruin'd people; and silence, or worse, with respect to safety of a numerous body of virtuous sufferers.

The still small voice of reason runs in the same way, where it is heard, on this side, it does on y'rs for peace and good will; it will defend itself, but never can provoke a war, much less one to its own destruction, like the present. From this circumstance, and the secession of the Duke [of] Tuscany and King [of] Prussia, I expect now it will be heard and attended to, and soon bring about peace with the republick of France; if not, I am still doubtful of a war with America, however a very large majority of disinterested and sober-minded part of the people of this country may be again both.

With remembrances to friends in Philad'a and neighborhood, I am, with respect, your real friend,

MATTHIAS ASPDEN.

114.

Matthias Aspden, London, to President, &c., of Bank North America.

LONDON, *March* , 1795.

GENTLEMEN: I wrote near two years agoe to the Cashier of the Bank of North America, acquainting him, for the information of directors, that I had sent a power of attorney [to] my half-sister, Mary Harrison, of Philad'a, to act for me touching my affairs there, and at the same time desired, if this authority should give her power over the balance of my acc't or deposits entrusted to the care of the bank, that my plate, which I deliver'd to the care of the bank myself, might not be subject to it, or deliver'd to any person whatever, without an order for that express purpose in my own handwriting, lest by death or accident it might be lost. So much for things laying useless; so much for a nullity, and this on three counts. 1st. False suggestion being no subject; 2nd. Never joined the British army; and 3rdly. A merchant. To this letter I never received an answer, perhaps from not being properly address'd, nor have I from my half-sister, informing me wether she has received the power I sent her, or wether act herself or any person under her; which has led me to send other powers since, and am yet, to my surprize and concern, ignorant if I have any attorney in America or not.

You will oblige me, upon the receipt of this letter, by informing me if my last letter has been received, and the contents complied with; and likewise in furnishing me with a state of my acc't with the bank.

Should the note I left in the bank of my half-brother's, James Hartley, for £254 6 be paid, which, for his sake I hope it is, be kind enough, if this authority is sufficient, to invest, within (ten or twenty dollars) of the ball * * of my acc't in the 3 pr. cts. defer'd stock, and to receive the interest till further advice. To suppose any objection to this, would be to believe the bank capable of takeing the advantage of the situation of a person whose absence, at first, was not from choice, let him have what opinion he might, nor stay at present, and for same, from inclination.

I am, gent'n, your obed't serv't,

MATTHIAS ASPDEN.

The above note is for £254 3.

To the PRESIDENT and DIRECTORS of the Bank
of North America, in Philadelphia.

P. S. Direct to me at Bath, if not on my return to America, more than probable I shall be there. Leaveing America in the interregnum, my rights has been, and are *to* doubtful to hazard the employm't of a ship in either the Jamaica or American trade.

115.

Matthias Aspden, London, to T. Morris.

LONDON, *May 9th*, 1795.

RESPECTED FRIEND: I herewith enclose you a certificate, No. 3917, issued from the United States Loan Office, State of New York, (dated) 29th August, 1794, for two thousand nine hundred and eighty-six dollars forty-nine cents, assigned debt, bearing interest at 3 pr. cent. from the 1st July, 1794, subject to redemption whenever provision shall be made for the same, &c., with a power of attorney for transferring the said stock into my name, at the proper office, which I request you will be kind enough to get as early done as you can, and advise me thereof, directing to me as before. From the want of letters from America, and other serious considerations, I am sorry to say I cannot inform you at present with any certainty, whether I shall return to America in the course of next m'th or not, as was my intention. Such are the difficulties at this time that present themselves to me on this subject.

I am, d'r friend, your obed't serv't,

MATTHIAS ASPDEN.

To Mr. THOMAS MORRIS,
(Brewer,) Philadelphia.

The above put in the bag of the Adriana, for Philadelphia, May 9th, 1795. Attested by

FOSTER,
(Notary,) Birchen lane.

116.

Thomas Morris, Philadelphia, to Matthias Aspden, London.

PHILADELPHIA, 9 *mo.* 11, 1795.

RESPECTED FRIEND: Thou wilt perhaps think that I have too long delayed to acknowledge the receipt of thine of May 9th last. I should certainly have written earlier, but for the probability that in the course of the month following that date thou hadst taken thy passage for this country according to the expectation held out in thy letter. I did hope that, from my so positively declining to undertake the transaction of thy general concerns in this country, thou wouldst have obliged me so far as to have committed to other hands any particular business that occurred to be done. The certificate which was inclosed in thy letter I received, and tho' I had determined to lay it by in its then situation for thy future order; yet, on further consideration, finding that thy interest would be somewhat affected by a delay of the transfer, I obtained a power of attorney from George Simpson, the present cashier of the Bank U. S., to John Townsend, of New York, who procured a transfer of the certificate in the books of the Treasury of the United States there; a certificate whereof he lately transmitted to me, and I have at last obtained a final arrangement of the business in the register's office, Treasury of the United States here, by a certificate given and recorded in thy name, "No. 2473, dated 2d Sept'r, 1795, for 2,986 dollars 49 "cents, assumed debt, bearing interest at 3 pr. cent. pr. annum, from "1st July, 1795, inclusively, payable quarter yearly, and is transfer- "rable only by appearance in person, or by attorney at the proper office." Signed by Joseph Nourse, reg'r. This certificate now waits thy future direction; but, my good friend, as I have particular objections to being employed in this way, I again request that thy business hereafter may be committed to other hands, as I really cannot agree to undertake it, and it may probably suffer by the delay which must follow its being put under my care.

The people of this country have been much agitated under consideration of the treaty not long since negotiated between Britain and America, and from Georgia to New Hampshire have published addresses and resolutions in reprobation of it. In point of numbers I have very little doubt that a great majority are against it, and some of them men of understanding and influence; notwithstanding which our President, (as 'ere this reaches thee will be generally known,) about the middle of last month, put his signature in ratification of it, according to the recommendation of twenty out of thirty senators. What effect this may have on the future politicks of America, I pretend not to foresee, but am willing to hope the best.

I remain thy assured friend,

THOS. MORRIS.

Endorsed—Matthias Aspden, Bath.

Should the note I left in the bank of my half-brother's, James Hartley, for £254 6 be paid, which, for his sake I hope it is, be kind enough, if this authority is sufficient, to invest, within (ten or twenty dollars) of the ball * * of my acc't in the 3 pr. cts. defer'd stock, and to receive the interest till further advice. To suppose any objection to this, would be to believe the bank capable of takeing the advantage of the situation of a person whose absence, at first, was not from choice, let him have what opinion he might, nor stay at present, and for same, from inclination.

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MATTHIAS ASPDEN.

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The people of this country have been much agitated under consideration of the treaty not long since negotiated between Britain and America, and from Georgia to New Hampshire have published addresses and resolutions in reprobation of it. In point of numbers I have very little doubt that a great majority are against it, and some of them men of understanding and influence; notwithstanding which our President, (as 'ere this reaches thee will be generally known,) about the middle of last month, put his signature in ratification of it, according to the recommendation of twenty out of thirty senators. What effect this may have on the future politicks of America, I pretend not to foresee, but am willing to hope the best.

I remain thy assured friend,

THOS. MORRIS.

Endorsed—Matthias Aspden, Bath.

117.

Account by Messrs. Barings of costs of three per cents.

Account of the costs of five thousand three hundred and thirty-eight dollars and sixty-eight cents, of American three pr. cent. stock, purchased by order of Messrs. Henry Hoare & Co., for account of Mr. Matthias Aspden, of Bath, as follows:

1. Certificate No. 8,020, dated New York, 23d October, 1795, payable to James Bolland, for dollars 5,338 68, a. 4s. 6d. makes - - - - - - -	£1,201 4
Purchased with dividend from the first of October last, a. 52 pr. cent. - - - - - - - -	£624 12 06
Deduct one quarter's interest due 1st Jan'y, 1796, -	9 00 02
	£615 12 04
Brokerage on £1,201 4s. 1. a. ¼ pr. cent. £3 00 00	
Commission ½ pr. cent. £615 12s. 4d. £3 04 10	6 01 10
	£621 14 02

Errors excepted. London, 23d Xbre, 1795.

JOHN & FRAN'S BARING & CO.

118.

Matthias Aspden, London, to T. Morris.

LONDON, *Feb'y 22d*, 1796.

RESPECTED FRIEND: I was duly fav'd at Bath with your letter of the 11th (of 9 mo.) Sept'r last, with duplicate soon after, acquainting me with the receipt of my letter to you of the 9th of May, 1795, enclosing a certificate of the United States for dollars 2,986, 49 cents, and that you had got the same regularly transfer'd into my name in the register office of the Treasury of the United States at Philadelphia, by a certificate given and recorded in my name, "No. 2,473, and dated Sept'r 3d, 1795," and laying there waiting my further direction. I can only here express to you my acknowledgements for the service done me in this instance, and of my readiness, when opertunity offers, of rendering you suitable returns. The scruples your letter discovers to me you entertain of medling in any way with "public paper," will prevent me in future from laying you under any more difficulties of this kind. I have lately bo't upwards of 5,000 dollars more, and intend buying a further sum. The certificates I propose to send to the President of the Bank of the United States, the proper transfer of which I understand he consents to take upon himself for the public service as a part of the trust he has accepted.

The late treaty of commerce with *a* America, I have laying before me; the 12th article, as it wants the "quid pro quo," I think not improperly suspended. The 6th article I see has its foundation on the bare article of the former treaty "which stipulates for the recovery of debts virtually forfeited, of a few pauper tradesmen, and leaves the virtuous sufferer without the security of an amnesty)" and has in it too much of riping of sores without any apparent good effect, to be palatable. There are other articles novel in treaties, yet taken collectively and considered as an experiment and beginning to a right understanding with respect to commercial intercourse by treaty; I do not see the Senate could do otherwise than consent to the ratification of it. Time, as you observe, when it comes to be carried into execution, will best shew the true and mutual advantage of it [to] both countries in its present form.

You may expect me, but I cannot tell you when; as I am circumstanced without rights in England, I can neither well leave it, nor enjoy with satisfaction the property I possess in it. When the council called upon me, it's a pity the had not call'd upon some person in the tower or fort in prison, it might [have] been just as well or proper; yet could I have returned seasonably, I believe I may venture to say I should considerably have contributed from the confidence that would have been placed in me, to have kept the £6 pr. ct. at par, if not above; yet such are my experiences, (contradiction as it may appear,) I hardly know *were* to place it on this side, to feel as I could wish.

I must refer you to the public papers to form an *an* opinion on the prospect of a speedy peace with France.

And am, with real respect, your obed't servant,

MATTHIAS ASPDEN.

To Mr. Thomas Morris, brewer, Philadelphia.

P. S. I wrote you by the Roebuck, via Bristol, and hope duly to hear from you; and of the Bank of N. America haveing bo't the stock desired, and of my plate being safe in their custody.

119.

Certified copies of certificates of stock.

Copy.

United States Loan Office. No. 8,020.

STATE OF NEW YORK, 23*d*. *Oct'r*, 1795.

Be it known, that there is due from the United States of America unto James Bolland, of London, merchant, or his assigns, the sum of five thousand three hundred and thirty-eight dollars and sixty-eight cents, bearing interest at three per centum per annum, from the first day of October, 1795, inclusively, payable quarter yearly, and subject to redemption by the payment of said sum, whenever provision shall be made therefor by law. Which debt is recorded in this office, and is

transferable only by appearance in person, or by attorney, at the proper office, according to the rules and forms instituted for that purpose.

M. CLARKSON,

5,338 dollars 68-100. *Commiss. of Loans.*

Letter of attorney, dated 22d December, 1795, from said James Bolland to the hon'ble Thomas Willing, president of the Bank of the United States, or president for the time being, to transfer said certificate into the name of Matthias Aspden, formerly of the city of Philadelphia, merchant, now of the parish of St. George the Martyr, in the county of Middlesex, gentleman.

Ex'd.

I, Robert Robson, of London, notary public by royal authority, duly admitted and sworn, do hereby certify, to whom it may concern, that the foregoing is a true copy of the original American stock certificate, and extract of letter of attorney to me, produced by Mr. Matthias Aspden; and I do further certify, that I this day enclosed and sealed up the said original certificate and letter of attorney in a cover, addressed the hon'ble Thomas Willing, president of the Bank of the United States, and put the same into a box marked R. R., addressed "Henry Kuhl, esq're, ass't cashier of the bank, Philadelphia," and delivered the said *said* box and its contents into the hands of Capt'n James Josiah, commander of the ship William Penn, bound for Philadelphia, who engaged to deliver the same on his arrival there agreeable to the address thereon. Of all which, an act being required, I have granted this one under my notarial firm and seal, in London, this twenty-sixth day of February, 1796.

Quod attestor, R. ROBSON, [L. S.]
Not. Pub.

120.

Matthias Aspden to Hon. Thomas Willing.

LONDON, *May 9th*, 1796.

SIR: Under date of the 29th March last I enclosed you a certificate, No. 8,066, to James Codwise, for 1,952 dollars and 54 cents, in the three pr. cent. stock of the united stock, with a power of attorney to transfer the same into my name, and also a power of attorney to receive the dividends on the stock standing in my name in that fund, which hope will be duly received.

I now herewith enclose you a certificate, No. 3,150, for three shares in the Bank of the United States, to Samuel & Henry Waddington, dated Philadelphia, the 1st day of July, 1795, with a power of attorney from them to transfer the same into my name in the books at the proper office, and also a power to receive the dividends on my shares in the bank as the become due, which I flatter myself you will duly receive, and do the needful in the premisses.

I am, d'r sir, your obed't servant,
MATTHIAS ASPDEN.

To the hon'ble Thomas Willing, president of the Bank of the United States, or president for the time being.

P. S. I have further here enclosed, under notarial seal, which is authority to transfer property in the funds and shares in the bank, and I trust will be to recover my right—evidence of my being an inhabitant of the city of London in Decemb'r, 1776, with an account at foot of sundry sums of money, according to date, taken from the debit of Benj'n & Calv. Bewicke, Bewickes & Mourgue, and Lancelot Cowper, deceased, acct. curr'ts, render'd to me at different periods between the year 1777 and 1783, that was paid to me and to my order for current expences, as further chain of evidence of my being in England, and an inhabitant thereof, say one part or another, more or less, from the time of my arrival, in the year seventeen hundred and seventy-six, until after the American war, except a short excursion to Flanders and Holland in the summer of the year 1778; with the document of several letters and remarks made on the subject of them, as still further proof of the same—which I request the bank will take care of and file, that recourse may be had to the same when wanted, for the purpose of takeing my case out of an act of assembly which attaints me, as supposed, of high treason, for not appearing to take my trial, &c.; and under supposition that I am the person my estate has been seized, &c.; from which the bank will see, and the public at large, what a black iniquitous act it was for the legislature to attaint persons of treason by act of assembly, over whom the had no power, and from wicked and false suggestions—which is clearly the case here—and *were* the loss of estate is not so much a matter of consideration as the grievous manner in which the party has been suffering a "privation of right" in other respects therefrom, exclusive of sea-risks, disappointments, and uneasiness of mind experienced—for which no amends can be made me—and the danger of allowing such a precedent.

MATTHIAS ASPDEN.

Endorsed—To the honorable Thomas Willing, president of the Bank of the United States, or president for the time being.

121.

Matthias Aspden, London, to Thomas Willing, president, &c.

LONDON, *July* , 1796.

SIR: Under date of Feb'y 22d, I enclosed you certificate No. 8020, for 5,338 dollars 68 cts.; and under date of March the 29th, I enclosed you certificate No. 8,066, for 1,952 dollars 54 cts., three pr. ct. stock U. S.; and also, under date of May the 9th last, I enclosed you certificate No. 3,150, for three shares in the Bank of the United States—with powers to transfer and to receive dividends on my account as the grow due—and other papers, authenticated under notarial seal, con-

taining matter of evidence for the purpose of takeing a case out of an act of assembly, and recovering a house, stores, and wharf belonging to me in Philadelphia, and a plantation in Newtown township, in the county of Chester, illegally seized and alienated under false pretences; to none of which letters have I yet been favor'd with an answer, but make no doubt of their getting safe to hand, and of the needful being done; and flatter myself I shall not be long without a line to acquaint me therewith.

As I have sent the above incontestable evidence to the bank touching the matter in question, and as several friends and relations, to whom I have sent powers of attorney, have declin'd acting, perhaps from the want of authenticated proofs to proceed upon, and as there are still different considerations that will keep me in England some time longer, I can conceive no impropriety in sending the bank a power of attorney to act for me in this particular case, which interests the public, and also my heir-at-law, who has his right in this case, and cannot lose it; and hope the will not deem it any, more especially as the are in possession of funds, and as it will be attended with little or no trouble, further then to direct their solicitor or attorney to bring a writ of ejectment, which will try the right, and to pay the rents and proffits into the bank; for which purpose I have here enclosed you a power of attorney, and request the bank will give immediate directions to proceed in the business, as the guardians of all rights and interests committed to their care; more particularly at this time, when the United States are without a chancellor, at least the State of Pensylvania, to make the Government perfect.

I am, d'r sir, your obed't servant,

MATTHIAS ASPDEN.

To the hon'ble Thomas Willing, president of the Bank of the United States, or president for the time being, in Philadelphia.

The following indorsed on the back of the power of attorney, it being a general one.

Bond to me of Joseph Wharton, dated 1774, left with Abraham Liddon, for £280, and with interest, ab't -	£649 12
Note of James Hartley to me, dated 1791, and left at the Bank of North America, for £254 6, and with int., ab't - - - - - - -	330 11
Where also I left my plate in a small box, labell'd with my name.	
Debt due from the estate of Joseph Shewell, as pr. acc't rend'd by James Hartley, being for rent of my house ab't six years, who lett the same to J. S. in Ap'll, 1776, and as rent went a great part of the time, might been settled very justly at £600 - - -	465 12 5

122.

R. Simpson, London, to Matthias Aspden, Bath.

LONDON, *Feb.* 27, '97.

HON'D SIR:

Being from home on the delivery of your favor, have but just time to save the post. The appartments will be ready as you desire. They have been slept in, and good fires till now. My wife will take care you shall have linnen to your likeing, and the rooms warm'd.

Am with due respect, sir, y'r obedient ser.,

R. SIMPSON.

Endorsed—Matthias Aspden, esq're, No. 4, King street, Queen square, Bath.

123.

Matthias Aspden, London, to Thomas Willing.

LONDON, *March* 14, 1797.

SIR: I duly received Mr. Henry Khul, assistant cashier, letter, (and duplicate) dated Bank of the United States, July 25th, 1796, acknowledgeing the receipt of my letters of the 22d Feb'y, and 29th March, 1796, with the certificates enclosed; and adviseing that the same had been transfer'd into my name in the books of the Treasury, and others return'd in a packet address'd to me, to the care of Robert Robson, esqu'r, notary of London, amt'g to seven thousand two hundred and ninety-one dollars and twenty-two cents, three pr. ct. stock, which I have likewise received and paid to Mr. Robson, through Messrs. Henry Hoare & Co., 21s. 6d. sterl'g, which no doubt must include the sum of three dollars and thirty cents paid by the bank, which Mr. Khul desires me to pay him, and a further charge of his own.

I am sorry to understand, thro' an oversight, the power of attorney I have sent to receive dividends is not a proper one, from its referring to stock in the books at New York; nevertheless will flatter myself, as the matter may be new, if the clause in the power to appoint others is not sufficient, that the postscript to my letter of the 29th March, advising of my haveing sent a power to receive dividends on ten thousand two hundred and seventy-seven dollars 71 cents, three pr. ct. stock, and on all other stock standing in my name in the books of the United States, (which was the form it was my intention the power should been fill'd up in,) may be authority for this purpose, if the bank is not restricted in point of form by any rule.

I have also to acknowledge the receipt of Mr. Khul's letter dated Bank of the United States, Novem'r 15th, 1796, and duplicate, adviseing me of the receipt of my letters of the 9th May and 25th of July last, with their enclosures; and of his haveing transmitted, to the care of Rob't Robson, esq'r, of London, a packet to my address, contain

taining matter of evidence for the purpose of takeing a case out of an act of assembly, and recovering a house, stores, and wharf belonging to me in Philadelphia, and a plantation in Newtown township, in the county of Chester, illegally seized and alienated under false pretences; to none of which letters have I yet been favor'd with an answer, but make no doubt of their getting safe to hand, and of the needful being done; and flatter myself I shall not be long without a line to acquaint me therewith.

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MATTHIAS ASPDEN.

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I am sorry to understand, thro' an oversight, the power of attorney I have sent to receive dividends is not a proper one, from its referring to stock in the books at New York; nevertheless will flatter myself, as the matter may be new, if the clause in the power to appoint others is not sufficient, that the postscript to my letter of the 29th March, adviseing of my haveing sent a power to receive dividends on ten thousand two hundred and seventy-seven dollars 71 cents, three pr. ct. stock, and on all other stock standing in my name in the books of the United States, (which was the form it was my intention the power should been fill'd up in,) may be authority for this purpose, if the bank is not restricted in point of form by any rule.

I have also to acknowledge the receipt of Mr. Khul's letter dated Bank of the United States, Novem'r 15th, 1796, and duplicate, adviseing me of the receipt of my letters of the 9th May and 25th of July last, with their enclosures; and of his haveing transmitted, to the care of Rob't Robson, esq'r, of London, a packet to my address, contain

ing a certificate for three shares of that institution, which I have received, and much obliged to the bank for their trouble therein. He also acquaints me that you had desired him to inform me that the business I had committed to you under the power enclosed in my letter of the 25th July, mention'd above, did not appertain to the bank, and that you could not comply with my wishes; and that the papers relative to my residence in London, &c., during the year 1776, will remain in bank subject to my order. This objection I was doubtfull would be made when I sent the power, &c., yet in a case of so much injustice, both with respect to criminalty or power the assembly had over me, and as I had been disapointed in my application to several individuals, I was rather led to hope the bank might take it up, as *the* were to receive the rents and proffits of the estate, and would be a little interested; and do still flatter myself that the bank has or will, upon reconsidering the matter, take it up, either by process of writ thro' the channel of their solicitor, or in a more summary way, as a matter that evidently contravenes the treaty of peace; for it is clear, what could not be legally forfeited, as in this instance, could not be legally seized; therefore the State is bound to restore it by the treaty, which should be enquired into and done. I may say particularly in this case of mine, and at [an] early period; for unreasonable things are neither to be expected nor required.

I am, sir, your obed't servant, MATTHIAS ASPDEN.

To the Hon'ble Thom's Willing, president of the Bank of the United States, or president for the time being, in Philadelphia.

124

Matthias Aspden, London, to Thomas Willing.

"What is written in the following [ ] parenthesis, omitted in the letter sent."

LONDON, *May* 10*th*, 1797.

SIR: I was going to send to the bank pr. this conveyance, another power after the new form, to receive my dividends, but when I came to sign it, it was so blotted I was ashamed to put my name [to] it, [although *a* gentlemen who are not supposed in some countries to be very nice about character or credit, or care what blotted paper *the* sign, but as I am not a gentleman of that sort, I was led to object,] and must wait another opportunity, and shall hope in the interim, if the Will'm Pen has a short passage, the answer I may receive to my letter of the 14th March last, (duplicate herewith,) will make it unnecessary. Now I am writing, I think it not amiss to mention to the bank, that I was only nineteen years and about three months old the beginning of May, 1775, when I sent the Ranger to London to be sold for what she would bring, under the pains of the prohibitory act, laden with a cargo of flour on my own account; and also for their information, if it was the year before, only eighteen years old when I sold my estate in Haddonfield, State of Jersey, to Thom's Redman, believing then I must been five and twenty from a letter wrote to David and John Barclay of London, dated Aprill 17th, 1769, respecting the sale of stock left to me in

the funds, which I proposed on my comeing of age, "which will follow in the course of a few months;" this cheat, and afflicting one it has proved to me, for I certainly should not been quite so forward in many things as I was had I known my age more exactly, has arose from my being remarkably tall and forward in my learning for my age when a child, and having trusts early in my hands, and often hearing myself at that time call'd ab't the age that made me what I supposed myself to be; this, no doubt, is well known to you and many others in Pennsylvania and State of Jersey, and must been known to Mr. Redman, and surprizes me much how he could be guilty of this error, (not that I mean to take any advantage, on the contrary, in buying an estate I had no more than a life interest in untill I came of age, and could have no power to sell; and what I sh'd not have done had I known it.) I have been enabled to ascertain my age from meeting with an account in a magazine, when the Highlanders arrived at Philad'a war before last, 7th June, 1757, and encamp'd soon after on Society hill, where I remember being taken by my half sister, Ann Hinchman, and walking with her among them, having hold of my hand, *then in petticoats*, and a strange sight then it was—and if in July or August, I must been ab't 17 or 18 m'ths old, and is a circumstance the earliest I have any clear remembrance of myself.

I am, sir, your obedient servant,

MATTHIAS ASPDEN.

To the Hon'ble THOM'S WILLING,
President of the Bank of the United States,
or President for the time being, in Philadelphia.

125.

J. Fry, Jr., & Co. to Matthias Aspden.

J. Fry, jr., & Co., present their respects to Mr. Aspden. They have received two cert's of ins'ce stock in Philadelphia, with which they acquaint him, agreeably to their promise.

One certificate contains 100 shares of

Orig'l 2 5 0	sterling.		
Prim. 1 2 6	The North American Insurance Company a 3. 7. 6. - - - - -		£337 10
£3 7 6	*Exclusive* of the dividend payable at this time.		
The other certificate is for 4 shares of the Pennsylvania Ins'ce Company, orig'l - -		90=360	
Prim. 2½ pr. ct. *exclusive* of the div'd payable in Feb'y - - - - -		9	
			369 —
			£706 10

N. B. These are the prices of 5th Dec'r, in Philadelphia. South str., 9th January, 1798.

ing a certificate for three shares of that institution, which I have received, and much obliged to the bank for their trouble therein. He also acquaints me that you had desired him to inform me that the business I had committed to you under the power enclosed in my letter of the 25th July, mention'd above, did not appertain to the bank, and that you could not comply with my wishes; and that the papers relative to my residence in London, &c., during the year 1776, will remain in bank subject to my order. This objection I was doubtfull would be made when I sent the power, &c., yet in a case of so much injustice, both with respect to criminalty or power the assembly had over me, and as I had been disapointed in my application to several individuals, I was rather led to hope the bank might take it up, as *the* were to receive the rents and proffits of the estate, and would be a little interested; and do still flatter myself that the bank has or will, upon reconsidering the matter, take it up, either by process of writ thro' the channel of their solicitor, or in a more summary way, as a matter that evidently contravenes the treaty of peace; for it is clear, what could not be legally forfeited, as in this instance, could not be legally seized; therefore the State is bound to restore it by the treaty, which should be enquired into and done. I may say particularly in this case of mine, and at [an] early period; for unreasonable things are neither to be expected nor required.

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124

Matthias Aspden, London, to Thomas Willing.

"What is written in the following [ ] parenthesis, omitted in the letter sent."

LONDON, *May 10th*, 1797.

SIR: I was going to send to the bank pr. this conveyance, another power after the new form, to receive my dividends, but when I came to sign it, it was so blotted I was ashamed to put my name [to] it, [although *a* gentlemen who are not supposed in some countries to be very nice about character or credit, or care what blotted paper *the* sign, but as I am not a gentleman of that sort, I was led to object,] and must wait another opportunity, and shall hope in the interim, if the Will'm Pen has a short passage, the answer I may receive to my letter of the 14th March last, (duplicate herewith,) will make it unnecessary. Now I am writing, I think it not amiss to mention to the bank, that I was only nineteen years and about three months old the beginning of May, 1775, when I sent the Ranger to London to be sold for what she would bring, under the pains of the prohibitory act, laden with a cargo of flour on my own account; and also for their information, if it was the year before, only eighteen years old when I sold my estate in Haddonfield, State of Jersey, to Thom's Redman, believing then I must been five and twenty from a letter wrote to David and John Barclay of London, dated Aprill 17th, 1769, respecting the sale of stock left to me in

the funds, which I proposed on my comeing of age, "which will follow in the course of a few months;" this cheat, and afflicting one it has proved to me, for I certainly should not been quite so forward in many things as I was had I known my age more exactly, has arose from my being remarkably tall and forward in my learning for my age when a child, and having trusts early in my hands, and often hearing myself at that time call'd ab't the age that made me what I supposed myself to be; this, no doubt, is well known to you and many others in Pennsylvania and State of Jersey, and must been known to Mr. Redman, and surprizes me much how he could be guilty of this error, (not that I mean to take any advantage, on the contrary, in buying an estate I had no more than a life interest in untill I came of age, and could have no power to sell; and what I sh'd not have done had I known it.) I have been enabled to ascertain my age from meeting with an account in a magazine, when the Highlanders arrived at Philad'a war before last, 7th June, 1757, and encamp'd soon after on Society hill, where I remember being taken by my half sister, Ann Hinchman, and walking with her among them, having hold of my hand, *then in petticoats*, and a strange sight then it was—and if in July or August, I must been ab't 17 or 18 m'ths old, and is a circumstance the earliest I have any clear remembrance of myself.

I am, sir, your obedient servant,

MATTHIAS ASPDEN.

To the Hon'ble THOM'S WILLING,
President of the Bank of the United States,
or President for the time being, in Philadelphia.

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J. Fry, Jr., & Co. to Matthias Aspden.

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Orig'l 2 5 0	sterling.		
Prim. 1 2 6	The North American Insurance Company		
	a 3. 7. 6. - - - - -		£337 10
£3 7 6	*Exclusive* of the dividend payable at this time.		
The other certificate is for 4 shares of the Pennsylvania Ins'ce Company, orig'l - - -		90=360	
Prim. 2½ pr. ct. *exclusive* of the div'd payable in Feb'y - - - - - -		9	
			369 —
			£706 10

N. B. These are the prices of 5th Dec'r, in Philadelphia.
South str., 9th January, 1798.

126.

W. Miles & Son, Bristol, to Matthias Aspden, London.

Sir: Our W. M. was favor'd w——— of the 28 April. In answer to your enq ——— vessels sailing from Bristol to Phila. ——— York, or Boston. For the former place, th ——— the Betsy and Roe Buck, belonging to ——— of this city, fitted up with tolerab ——— modations. There is a vessel exp ——— from Charleston, she will be to re ——— immediately, if either of the ——— should suit you, you will let u ——— remain,

Sir, your most,

WM. M———.

Bristol, 2d May, 1798.

Matthias Aspden, esq.,

No. 5, Orange street, Red Lion square, London ——.

127.

W. Miles & Son, Bristol, to Matthias Aspden, Bath.

Bristol, *23rd June*, 1798.

Matthias Aspden, esq'r.

Sir: Agreeable to your request in your letter of the 21st instant, we have made particular enquirys of the Capt. of the Thomas about his passengers, terms of the passage, &c. Several applications have been made, but no one person have absolutely fixed with him as yet. His terms are thirty-five guineas if he finds you in stores during the voyage, or twenty guineas and you lay in your own, say water, bread, butter, beef, pork, poultry, beer, cyder, wine, &c.; in short every thing you may want to make use of on the passage; the twenty guineas being only considered as paying for the use of your state room and cabin, and fire to cook your victuals; you will have further to find your own bed and bedding—this must be done in either case. The Thomas is a very good, strong, North Carolina built vessel, and sails well; the master is very sober and attentive, but, from what we can learn, he had rather you found your own stores. We further learn, the passage must be paid before embarkation; we have been thus particular in everything for your satisfaction in making your arrangements. The Thomas will be ready for sea by the 8th July.

We remain, sir, your most obed't serv't,

WM. MILES & SON.

Endorsed—Matthias Aspden, esq'r, No. 22, Gay street, Bath.

128.

H. Hoare & Co. to Matthias Aspden, Bath.

Sir: We are favor'd with your letter, and have enquired the price of a passage to New York or Charlestown, with the accommodations you

require, which we are inform'd is forty guineas to either. We have likewise enquired at the Secretary of State's office, and find that a passport is not necessary for an American to leave this kingdom.

We are, sir, your most obed't h'ble serv'ts,

HENRY HOARE & Co.

London, 26 June, 1798.

MATTH'S ASPDEN, esq.

Endorsed—Matthias Aspden, esq., Bath.

129.

H. Hoare & Co., London, to Matthias Aspden, Bath.

LONDON, 2 *July*, 1798.

SIR: In consequence of your letter we have again applied to the Secretary of State's office, and, to prevent the possibility of your suffering any inconvenience, have procured the enclosed passport, for which we paid one guinea, and your account is debited for that sum. The description of your person you will please to insert yourself, and your signature in the margin. You will observe that the period allowed is only fifteen days, but the time may be extended without any further expense.

We are, sir, your most obed't servant,

HENRY HOARE & Co.

MATTHIAS ASPDEN, esq.

Endorsed—Matthias Aspden, esq., Bath.

130.

H. Hoare & Co., London, to Matthias Aspden, Bristol.

SIR: We are favor'd with your letter, and have, by this night's Bristol coach, sent you in a small parcel twenty Posts w 9: 4ds. a 80s., amount thirty-six pounds 16s., which we have debited in your account. We have sent to Mr. Simpson, No. 5, Orange st't, respecting your trunks, who has express'd some demur in consequence of a demand he has on you, but of which we will write to you. We are sorry we cannot accommodate you with a letter of credit on Charles Town, as we have no correspondent at that place. We will observe your directions respecting the dividends, and wish to be inform'd if we are to receive those now due.

We are, sir, your most obed't h'ble serv'ts,

HENRY HOARE & Co.

MATTHIAS ASPDEN, esq.

Endorsed—Matthias Aspden, esq., to the care of Messrs. Wm. Miles & Son, Bristol.

Postmark, J. 10, '98.

131.

H. Hoare & Co., London, to Matthias Aspden, Bath.

SIR: In consequence of your letter, we have applied to the Secretary of State's office, and they inform us, that if you will return the passport, they will grant you another for a longer period.

We are, sir, your most obed't h'ble serv'ts,

HENRY HOARE & CO.

London, 12 July, 1798.

MATTHIAS ASPDEN, esq.

132.

H. Hoare & Co., London, to Matthias Aspden, Bristol.

SIR: We are favoured with your letter, and if you will be kind enough to return the passport, we will get the time extended for as long as you may wish. We presume it was regularly drawn up, as we produced the paper which you left with us, at the Secretary of State's office.

Your dividends due the 5th inst. we have received.

We are, sir, your most obedient servants,

HENRY HOARE & CO.

London, 16 July, 1798.

MATTHIAS ASPDEN, esq're.

Endorsed—Mathias Aspden, esq're, Bristol.

133.

Passport to Matthias Aspden from the Duke of Portland.

[STAMPS.] William Henry Cavendish, Duke of Portland, one of his majesty's most honorable privy council, and principal Secretary of State, &c., &c., &c.:

To all admirals, vice-admirals, captains, commanders of his majesty's ships-of-war or privateers, governors, mayors, sheriffs, justices of the peace, constables, customers, comptrollers, searchers, and all others whom it may concern, greeting: These are, in his majesty's name, to will and require you to permit and suffer the bearer hereof, Matthias Aspden, 42 years of age, 5 feet 10 inches high, dark complexion, native and citizen of America, freely and quietly to go from hence to Bristol, and there to embark and pass over to America, without any lett, hindrance, or molestation whatsoever: Provided, the said person do embark within one month after the date hereof, and sail, wind and weather permitting; or otherwise this pass shall remain no longer in force. Given at Whitehall, the seventeenth day of July, 1798.

PORTLAND. [L. S.]

The signature of the bearer—

MATTHIAS ASPDEN.

Custom-house, Bristol, allowed agreeably to act of 38 Geo. III, cap. 50, sec. 8. Certified this 24 July, 1798.

JOHN POWELL, *Coll.*

134.

Matthias Aspden's "Account of himself."

A person that supposes he may come under the description of an alien in the Alien bill, gives this account of himself:

His name is Matthias Aspden; age, he believes, forty-two; rank, a gentleman, bred and born, and heir to a good estate; his present support from the receipt of dividends on bank and other stock, to the amount of eight hundred pound and upward, pr. amount ariseing from his capital, and partial compensation for losses in America, made by the commissioners, to the amount of eleven hundred pound and upward. A merchant by profession; engaged in trade before he was fifteen, (believeing he was [of] age,) and required by act of parliament to give it up under the penalty; a "wealthy and respectable merchant" before he was twenty; born in Philadelphia, he believes in the house he lived in; parents, Matthias and Rebecca Aspden; his father born in England in the last century; bred a wool stapler, to which he served seven years apprenticeship near Halifax; and was afterwards, if he is not mistaken, on his return from America to England, complimented with the freedom of that town, and the city of Newcastle-upon-Tyne. Went a freeman to America ab't the year 1718, and became a merch't in Philadelphia about the year 1726, and died there in the year 1765. His mother born [in] America; widow of Roger Hartley, and daughter of Philip and Rebecca Packer, (maiden name Jones;) the former born in England; the latter in North Wales, and went, a child ab't nine year old, with her father and mother (anabaptist, of a good family,) to Philad'a, and three brothers, in the year 1683, then a wilderness, near which his mother died, in 1773.

He himself came to England soon after the revolt in the colonies, in Decemb'r, 1776, under the circumstances of the case, as briefly stated in his memorial to the commissioners, to be fully explain'd on his examination. Haveing sent all his vessells to England, (under the presumption that the insurgents would be reduced, the ground he presumes on which it was required,) in conformity to the prohibitory act, as stated therein, to wit, the brig Ranger, Benj'n Dunn, mast'r, to London with a cargo, on his acc't, to sell for what she would bring. Voyage alter'd from Lisbon, that she might not be sent back under any pretence whatever, and arrive too late to be sent out before the 10th Sept'r, the time limited by a resolve of the Congress for all vessells to sail, and lay untill she became a prize under the prohibitory act. The ship Rebecca, Laton Albro, mast'r, in July, to Cadiz with a cargoe on his acc't, where he had the neat proceeds in part of the two preceding cargoes laying, with orders to his correspondent to cover the vessells as their property, if the could not obtain £1,700 sterl'g for her, and send

her to the Bay of Honduras; from thence to proceed to Bristol with a cargoe of mahogany and logwood, on his acc't, purchased with the effects; the capt'n takes with him a freight, if one offers to be accepted in preference; on her arrival at Bristol, his correspondent had orders "if £1,400 sterl'g could not be had for her, to unrig and lay her up, and discharge all the people but the capt'n;" unluckily, at Bristol, she was seized, either from the transfer of property not being legally endorsed on the back of the register, or arriving too late; apparently, from this circumstance, American property was soon afterwards restored, and he conceives from the circumstances of the case and owner's intention. The ship Charming Nancy, George Corrie, mast'r, to Bristol, in September, laden, except a small matter on freight, with a cargoe on his acc't, with orders to his correspondent to send her on a voyage directed, prefering a freight, if one offers, or back, as the prohibitory act might or might not be repeal'd; not apprehending, as she would arrive in time, she could not be clear'd out after the 1st Jan'y, with his name in the register, unless in England. Was attainted of high treason, during the American war, by act of assembly; went to Philad'a in June, 1785, in the packet via New York, to use his endeavours to obtain restitution of rights and estate if he could, under the recomendatory article of the treaty, and not being very cordially received among all parties, was led, on adviseing with counsel, to withdraw; safety not being a question in the courts, he told him under the treaty whatever he might been advised, and return'd to England in the month of Septemb'r following. The remainder of estate being sold, a pardon was granted him by the Executive council in 1786; soon after, (if in their power in cases of attaind'r by act of assembly, is not clear,) a representation of this hazardous and *uncessfull* undertakeing was made to the commissioners soon after his return, haveing advised them of his goeing before he went, and desired tc know, and repeated it from time to time, if the were satisfied with his claim; suspense being a torment, *were* no cause is known or assign'd, and delay frequently injurious.

In 1788, a note was sent to him that the commissioners had received some further information on his claim, and should take it again into consideration and make report; which the did, and a certificate granted him for the compensation for the sum mentioned on the close of the business. Had the commissioners been pleased to tell him what this information was the wanted, and had got on his return from America, or had assign'd it as cause in their report for not allowing his claim, and allowed him a copy, he then could have judged what had been best to do—withdraw his claim, and waste no more time in delay and attendance upon it, or be at the further risk and expence necessary to procure the information wanted, if to be had; which appears to him was their duty to do, as their silence laid him open to imputation of haveing presented a fraudulent claim, his estate being seized and sold, and every way hurtfull.

Haveing a birth-right in *a* America, and doubtfull he had no civil right in England, he went again to America in 1791, and meeting

with ill treatment in his half-brother's house, and elsewhere were he lodged in Philad'a; for what cause, or from what quarter the attack came, he cannot tell; but learning from an adjudged case, his attainder was not legal, and believing this to be the cause of the commissioners disallowing his claim the period the did, if not altogether in their first report, he came again to England in the July packet of 1792, and arrived in London in Septemb'r, intending if the privy council had granted copies of the reports made on his claim, to have bro't an action again the commissioners, as the might appear for, "delay of justice," and he may add, inadequate compensation, and which he believes the case would sustain, and damages justly allowed him; but this obstacle being in the way, (he gave it up,) and intended for the reasons mention'd to return to America, had not the war and fall of stocks prevented him.

When in town, since his last return to England, he has resided in the lodgeings he was lately in at No. 5, Orange street, Red Lyon square, considering London as his home, from his property being invested in the funds, or more properly on loan to Government, and business on that account there. MATTHIAS ASPDEN.

Clifton, near Bristol, July 18th, 1798.

Copy of the account (of himself) enclosed to Rever'd Dr. Small one of his majestie's justices of the peace, for the county of Gloucester, under the alien bill.

135.

S. Gist, London, to John Granbury, Norfolk.

LONDON, *July* 19*th*, 1798.

SIR: The bearer, Mr. Matthias Aspden, is a friend of mine, now about leaving this country for Philadelphia. Should he, in his way from Carolina to that place, call at Norfolk, and have occasion for money to carry him there, his bill for fifty or one hundred pounds will (I have no doubt) be punctually paid.

I am, sir, your mo. obed't serv't,

SAM'L GIST.

To Mr. JOHN GRANBURY, merch't, Norfolk, Virg'a.

136.

S. Gist, London, to Matthias Aspden, Bristol.

LONDON, *July*, 19*th*, 1798.

SIR: Above is such a letter as you require; wishing you health, a good sight of your friends, and, above all, a propper recovery of your great losses,

I remain, very respec'y, sir, your mo. obed't s't,

SAM'L GIST.

Endorsed—Matthias Aspden, esq., Clifton, near Bristol.

137.

Matthias Aspden, Cork, to Capt. Luscomb.

CORK, *August*, 1798.

SIR: I find, in my particular situation, I am running risks in going just now by the Thomas, greater risks than the urgency of any calls I have to America should induce me to do, unless sway'd by haveing paid my passage.

I have, therefore, to request your sending my two trunks and mattrass, by the bearer, to Messrs. Harvey & Daves, mercht's, of this city, and upon seeing Messrs. Guppy & Armstrong will endeavour to adjust my passage, agreeable to what may be right in the matter.

I am, your obed. servant,

MATTHIAS ASPDEN.

Endorsed—Capt'n Luscomb, of the ship Thomas, laying at Cove, bound to Charlestown.

138.

Matthias Aspden to ———.

On the same paper with No. 137.

SIR: In July, 1798, I embark'd on board the Thomas, Capt'n Luscomb, from your port for Charlestown, to touch at Cork for convoy, and proceeded in her to that port, where I left her, thinking her not a safe vessel to proceed in further, from proveing very leaky in King road, and on our passage thither—and as I have seen no account of her arrival in Lloyd's list, suspect she is a missing vessel, and that my opinion was well founded, as far as this authority can be a confirmation; it shows my opinion well founded, as there is this authority for concludeing her a missing vessel, but as there must be prove of this, *were* insurance has been made, and as you probably may insure, as well as make insurances on vessels and goods, I am led to give you the trouble of this letter, to request you will inform me if your office either paid or recover'd for others, losses on this ship, or goods on board, on this voyage out—and if neither, if you would make this enquire, at the other offices with you, if the either recover'd or paid any, and inform me. There can be no impropriety in this, as the fact of her arrival or non-arrival, must now be known among the underwriters from office authority.

The attention shown to my accomodation on board, and those I could perceive I was likely to meet with in the passage, might have discouraged any person but an old employer from proceeding; yet, unpleasant as this augur'd, had the vessel appeared to me seaworthy I would have proceeded, sink or swim, resolved, if not taken by surprize, that my hanger, or a shott or two should have pass'd thro' some of their bodies, before the had come to this last experiment. I might ask how the fine folks, or even sturdy old veterans, with you, would like to

cross the Atlantic with such doubts and fears on their mind, and run no danger of any difference of sentim't in their answer. The most favorable acc't heard of it by my ward, Ralph at Eaton, has almost made him resolve never to quit terræ firma again, but as like may not happen again once in a man's lifetime, I hope his next letter from his friends and relations in Virginia, and a desire to see his native country, will bring him to alter his mind, or both him and his estate may suffer for it, poor fellow.

I am sorry to add, the sum I had p'd for my passage, if I am to lose it, and returning again, for the cause mention'd, is not likely to prove the only unpleasant part of my disappointment in not proceeding to America, if the interest on the sum Governm't owes me properly comes within the income bill.

139.

Pass for Matthias Aspden.

Permit the bearer, Math's Aspden, to pass from Cork to Dublin. To be in force for five days, and no longer.

Corke, 22d Aug't, 1798. O'clock.

KING'E BERRY, *Mayor.*

140.

H. Hoare & Co. to Matthias Aspden, Liverpool.

SIR: We are favor'd with your letter, and have in consequence applied to the Secretary of State's office respecting a licence for your residence in England, which they inform us they will readily grant on your informing them of the place you mean to make your residence. We were duly favor'd with your letter of the 19th inst., which we replied to on the 17 Aug't, address'd to you in Dublin, inclosing a letter of credit on Latouche & Co. for fifty pounds.

We are, sir, your most obed't humble serv'ts,

HENRY HOARE & CO.

London, 6 *Septem'r*, 1798.

MATTHIAS ASPDEN, esq.

Endorsed.—Matthias Aspden, esq. To the care of Messrs. Chorley & Greerson, Liverpool.

141.

License to Matthias Aspden, as an alien, with his remarks.

No. 14,299.

Whereas his majesty has been pleased, in pursuance of an act of Parliament, intituled an act to continue until the first day of

August, one thousand eight hundred, and until the end of the then next session of parliament, and amend an act made in the thirty-third year of the reign of his present majesty, intituled "An act for establishing regulations respecting aliens arrived in this kingdom, or resident therein, in certain cases," to authorize and empower, by warrant under his majesty's sign manual, John King and William Wickham, esquires, two of his majesty's under secretaries of state, and Charles William Flint, esquire, of Crown court, Westminster, or any one of them, as they shall think fit, and according to the instructions they shall receive from his majesty, or from any of his principal secretaries of state, to grant, by instrument under their hand and seal, his majesty's royal license to reside within this kingdom to any alien or aliens who shall apply for the same; such license to be either absolute, without restriction or limitation of time, or under and subject to such restrictions or conditions, and with such limitation of time and other circumstances as, according to the said act of parliament, and in conformity to such instructions as aforesaid, shall appear to them, or such one or more of them, by whom such license shall be granted, to be fit and proper; I do hereby, in pursuance of the said act, and of the powers vested in me by his majesty, grant unto Matthias Aspden, being an alien, his majesty's royal license to reside in London and its neighborhood from and after the date hereof.

Given under my hand and seal, at the alien office, in
[L. S.] Crown court, Westminster, this 12th day of Sept'r, 1798.

C. W. FLINT.

Underneath is the name of the party mentioned above in his own handwriting, and description added as described at the bank here since 1779; and also in America, since he became holder of stock of the bank, and of the United States.

MATTHIAS ASPDEN, Esq'RE.

An Englishman, born within the now limits of the United States of North America; and apprehends that he is improperly called an alien in this licence, and also in a passport to embark for America last July, from his not being a subject of the States—or otherwise he would have applied to the American minister for licence and passport—and is his plea in America from a case ruled and adjudged there, say Chapman's, to set aside an attainder under which his life and estate was supposed to be forfeited, and the latter actually seized, as *are* far as his real estate; that he neither is, nor never was, a subject of the United States, and is his defence again on this side, altho' he left America in 1776, and a minor, as he has since learn'd, and came to England, via Spain, for the causes set forth in an acc't given himself, (which he judged was proper to do whether foreigner or subject,) and insecurity he was liveing in there on that acc't—that he had done no act to forfeit his allegiance, and trusted to innocence for security and

good treatment. Again, admitting in contemplation of the laws of Pensylvan'a or the United States, that he is a subject of the same, from being within the same when the prohibitory act took place, and his being a native of Pensylvania or New Jersey; yet as his leaveing Philad'a, his place of residence within the Unit'd States was compulsive, as the above acc't shews, and a minor, and before the government of Pensylvania was organized or form'd, and therefore before any treason law or other law could be passed; and as he has done none of the acts declared to be treason by the treason bill that afterwards pass'd on the Governm't being form'd and organized, neither before nor after passing the same, nor neither could nor intended; it is most evident that his attainder was a false and wicked attainder, let it rest with whom it may, council or assembly; and under every contemplation of his case and situation, it may be justly said, that the act was no less base and barbarous in them, than it was malicious, cruel, and wanton in those that suggested it; origine being where or with whom it might.

142.

Henry Hoare & Co., London, to Matthias Aspden.

SIR: We were duly favor'd with your letter of the 9 Sept'r, and in consequence applied to the Secretary of State office to procure a license which we send you enclosed. We should have replied to your letter before this, but we apprehend your residence at Liverpool was very uncertain, as you meant to proceed to Bristol.

We are, sir, your most obed't h'ble serv'ts,

HENRY HOARE & CO.

London, 19 Sept'r, 1799.

MATTHIAS ASPDEN, esq.

143

Guppy, Armstrong & Co., Bristol, to Matthias Aspden.

BRISTOL, 20*th Sept'r*, 1798.

MATTHIAS ASPDEN, esq.

SIR: We have seen your letter address'd to Messrs. Miles & Son. We conceive the Thomas to be perfectly sea-worthy. We have receiv'd a letter from the capt'n, dated at Cork, where he speaks of her being in very good condition, and we expect she will immediately return to Bristol, after her arrival in Charleston; she is a remarkable good sailer, and in every respect an unexceptionable ship; she was dock'd and caulk'd in Bristol, and the ship-builders wou'd prove her in good condition; however we have advanced to Cap'n Luscombe, and expended in provisions on account of Mr. Aspden's accommodation, to a greater amount than Mr. A. paid for his passage. The cabin passengers are the perquisites of the capt'ns, so that 'tis not in our power to

make any return of what Mr. A. paid for his passage, having advanced it and more to the captain, whom we may very probably never see again. The ship is consigned to the address of Messrs. M'Whann & nephew, of Charleston, and we doubt not but these gent'n will give Mr. A. every satisfaction that is consistent and just.

We are, sir, your obed't h'ble serv'ts,

GUPPY, ARMSTRONG & CO.

Endorsed—Matthias Aspden, esq.

144.

W. Miles & Son, Bristol, to Matthias Aspden, London.

BRISTOL, *25th Oct'r*, 1798.

MATTHIAS ASPDEN, esq.

SIR: We duly received your letter of the 10th Sept'r, dated at Liverpool, advising your having quitted the Thomas at Cork, not deeming her seaworthy for the voyage, &c.; this letter we shewed to Messrs. Guppy & Armstrong, but was some time before we had a reply, and thinking you might have left Liverpool it was never forwarded. On the 23rd instant we received your favor of the 22nd instant, dated at London. In reply to both, we now inclose you Messrs. Guppy, Armstrong & Co.'s answer to your former letter, which is all the satisfaction that we can procure for you, and such as they seem determined to abide by. Hoping you will be more fortunate in your next tryal, and wishing you health,

We remain, sir, you most obed't serv'ts,

For WM. MILES & SON.
JAMES ROOM.

No. 5, New Ormond street, London.

Endorsed—Matthias Aspden, esq., No. 5, New Ormond street, London.

145.

Matthias Aspden, London, to Thomas Willing, &c.

LONDON, *January*, 1799.

GENTLEMEN: I proposed, early in the summer, to return to America; seeing no likelihood of a speedy end to the present unhappy war, and being advised by friends at Bristol, to whom I wrote, of a good opportunity from thence to Charlestown, and preferring this route, I went down to Bath in the neighbourhood of that city to avail myself of it; and after going over to look at the vessell and the acomodation she had, and before I engaged my passage, I wrote to Messrs. Hoare & Co., bankers, in London, with whom I had left an account of myself, which stated dates and facts as the alien bill directed, and desired them to lay that accc't of myself before the Duke of Portland, Secretary of State, which stated dates and facts, and inform me if a pasport would be required to embark for America; the informed me, in answer, "We have

likewise enquired at the Secretary [of] State's office, and find that a pasport is not necessary for an American to leave this kingdom." As this answer, "not necessary," might be a very good plea for an American to leave England, let him be who he may, or come when he might, either while the provinces were colonies of England, or dureing the interregnum or sovereignty, or when the were the United States, I was doubtful it might not be authority that would bear me out under a bill that made the penalties so severe, ("five hundred pounds to the capt'n, and twelve months imprisonment, or transportation for seven years, to the person so embarking,") should I be taken into custody after I had embark'd, and wrote to them again, desired an answer, yes or no, as no penalty in this case could attach; their letter in reply informed me, "We have again applied to the Secretary of State's office, and, to prevent the possibility of your suffering any inconvenience, have procured the enclosed pasport, for which we have paid a guinea." This was liberty to embark in fifteen days from the date, (2d July,) and use diligence so to do under the same penalties. I immediately wrote over to Bristol to engage my passage, and went over myself a day or two after, to be on the spot; but the vessell not sailing before the time expired, I returned the pasport to Messrs. Hoares, and desired the time might be exten. a month; and as I had some doubt from the words of the act that this could not be legally done, although advised it might, I enclosed an account of myself—a copy of that I left with them—to the Rever'd Dr. Small, one of his majesty's justices of the peace for the county of Gloucester, agreeable to the proclamation in the Gazette, being then on Clifton hill—a copy here enclose you. The passport being return'd me, with the time extended for a month, and sign'd afterwards by the collector, although under a posterior date, I have since remark'd, to the 17th, I embark'd the next day or day after, on board the ship Thomas, Capt'n Luscomb, for Charlestown, and sail'd the 22d from King road, and on the 27th arrived at Cork. The ship proveing leaky in King road, and more so on the passage, and seeing an account in the papers of the great likelihood of a war between France and America, and being doubtfull should we be taken I might not be exchanged by either side, from not being a real British subject, or real American citizen, although call'd the latter in my passport, probably from the pardon granted and the State haveing seized my estate, I proceeded no further, and return'd to England by the way of Dublin, and arrived at Liverpool in the Ponsonby packet on the 2d Sept'r, and wrote imediately to Messrs. Hoares & Co., in London, (not being at liberty to write to the American minister from not being an American citizen, the record in Chapman's case being again me,) to apply to the Secretary of State's office for a licence to live in England, if one was required, especially as a public creditor, and send it down to me; the inform'd me in answer, that the applied to the Secretary of State's office for a licence, and that one would be readily granted on nameing my place of residence. I imediately replied, "I must request to

name London, as my place of residence, indispensably or starve, unless the or some other friends would receive my dividends, and pay my drafts." A license was accordingly sent me down, specifying London and neighbourhood as my place of residence, without limitation of time; of which I avail'd myself, and soon after leisurely return'd; and now propose to stay untill the return of peace. I will here remark to the bank, as I embark'd under the penalty which the may perceive or learn, and suffering much before I got back, it bro't fresh to my remembrance the force of penalties—the imperious cause of my giveing up business and sending my vessells to England in compliance with the prohibitory act, and not longer after compell'd to follow myself. A grievance that but remotely affected the great body of farmers and mechanicks in America, a few carpenters, shipwrights, blacksmiths, and blockmakers in the seaports excepted; and should been well considered in council, and the protection that could been given, if myself and many others had done otherwise. The recollection of this invidious and ruinous hardship, bro't fresh to mind by recent loss and suffering, led me to make out an acc't of the debts oweing to me in America and West India's, with a state of my claims on the justice of the nation, when examined by the commissioners, with authentic documents in support of the same; and send it to the chancellor to hand to the King, as a matter that merited attention and contained information, and well worthy of consideration; whether any good effect will arise from it, I do not know; I can flatter myself with none; and should not, if the mode had been more regular. The Government is, nevertheless, in possession of my claim on the justice of the nation; and a very just claim it is; if in any way we are entitled to losses under the penalty—and that we are entitled to this, there is not a sober mechanick or long-shore man in all America, I believe, will deny. A copy I herewith submit to the good sense of the bank, as it contains an acc't of debts oweing to me, which the treaty of amity and commerce has made speciall provision for—*were* there has been any lawfull impediments to hinder the creditor in the recovery of the same; that I have been hinder'd the recovery of my just debts by lawfull impediments and returning again and ranking among the most valuable cit'zen of the country, cannot be denied; and this by an illegal and false attainder, both with respect to the treason alledged, and as any constitutional power the State had over me; being incapable of both trust and suffrage, as well as under protection from the rights I had, my estate might escheat—impossible to be forfeited for treason; and proves one of the most barbarous and disgraceful acts that ever reproached a country, from the pretence it gave to rob me on the one side, and handle to keep me under the torment of a ruinous suspense for years, equally cruel, on the other. Ignorant of the cause, and suffering in reputation from the fraud implied—and leaves little room for surprize that my native city should experience the sore and grievous visitations it has; and may again, if public councils are not in righteousness; it being evident to me, from the scourge of war on this

side, and pestilence on yours, that the Lord reigns still. The bank, I flatter myself, will see this matter in the light that I do; and as the have a general power, procure me that redress in the premises I am entitled; and apply the same, on receipt, to the credit of my account. I would not willingly have imposed this office on the bank, had I not observed for some time past a disposition to combine and confederate, *were* I should have least expected; and this, the must be sensible, may sometimes turn us from our right. I have likewise here enclosed the bank a power of attorney, agreeable to form; receive my dividends due and growing due on my stock in the 3 pr. ct. annuities, which I flatter myself the will be kind enough to do, and remit the same to me here.

I am, sir, your most obed'nt servant,

MATTHIAS ASPDEN.

To the hon'ble THOMAS WILLING, president of the Bank of the United States, or president for the time being.

P. S. I consider my ward, township, and hospital rights not among the least of my rights; and, may add, more unlikely things have happen'd in the world than that I may find them so.

146.

Thomas Morris, Philadelphia, to Matthias Aspden, London.

PHILADELPHIA, 2*d mo.* 12*th*, 1799.

RESPECTED FRIEND: I embrace the present opportunity by the dispatch for London of acknowleging the receipt of thine, dated "Cork, Aug't 22d, 1798," in which I note the prevalence of alarm which appears to have prevented the prosecution of thy intended voyage to this country. To be sure prisons are not very agreeable habitations, but is there not a possibility of being too much afraid even of them? As to the mention of thy name in any alien or naturalization bill, thou mayst, I think, depend that there is no such thing, nor do I find that any general law has been enacted here by which persons in thy circumstance are either mentioned or included. I am at a loss to conceive the meaning of thy expectation from the Bank of the United States and friends here, respecting attention to thy affairs in Pennsylvania. In my communications heretofore, I fully informed thee how far I had proceeded in a particular business confided to me, the reluctance with which I undertook it, and my determination to decline any further commission of that nature. The paper is yet in my hands, producing nothing; pray authorize some person, in the manner necessary, legally to divest me of any concern about it, and thereby oblige

Thy respectful and well wishing friend,

THOS. MORRIS.

Endorsed—Matthias Aspden. To the care of Hoare & Co., bankers, in London.

147.

Draft of answer endorsed.

D'R FRIEND: I have been duly favor'd with y'r letter of 12 Feb'y, and am glad to find therefrom that my letter to you of the 22 Aug. last had got to hand, which, I am rather doubtful, may not be [the] fate of some others I wrote, from the silence of the parties since. I agree with you that there is a possibility of our being too much afraid of prisons, if accommodated after the worse manner, not that the are pleasant habitations, accommodated after the best; but I have fears, were the least of my fears, and would have weigh'd with me but little, had the vessell I was on board proved less leaky, and some other things been more agreeable. That no notice may have been taken by an act of Congress, of the cases of minors and others who might leave the now States during the interregnum of sovereignty, may be as you writ me; but it press'd on my mind, probably from something I might have heard in conversation, that there had or should been from their being left in a very peculiar situation, but perhaps it may be, were there is a birthright, the operation of law may work something in fav'r on this head. In Jan'y last I enclosed

148.

Memorial of Matthias Aspden to the Lord Chancellor..

To the right honorable the Lord Chancellor:

The petition of Matthias Aspden, formerly of the city of Philadelphia, merchant, now resideing in England, a public creditor of more than twenty years, under the alien bill, limitted in his residence to London and neighborhood thereof, haveing given the account of himself hereunto annexed, sheweth—

That your orator complaineth when the prohibitory act pass'd in Feb'y, 1775, in the session of which year parliament voted the extraordinary force of men for the land, and 20,000 men for the sea service, for the purpose of reduceing the rebellion then declared to exist by the aforesaid act in his majesties colonies of North America, was a settled and establish'd merchant in Philadelphia at the age of nineteen years, believing himself then six and twenty, as he can bring proof to shew in the house your orator was born, and in a beneficial and extensive trade, on your orator's own account, as the annexed statement of the same will fully shew, with an adequate capital.

That your orator, loyally disposed, (following after in this respect, he believes, a long train of honorable English ancestors,) and deeply and seriously impress'd with the powerfull force voted to be sent to America to act by land and sea, again a country unprovided and defenceless, which, in your orator's, and the sober opinion of many others, must speedily restore it to tranquility, gave up business in obedience to the aforesaid act, that he might not be aiding and assisting, and sent his vessells to

England within the time limited, as required by the same, and agreeable to the restraining bill, under the grievous penalty of their being destroy'd or made prizes as the vessells of an enemy if found in port, a proceeding cruel and impolitic, your orator complains, and unlawfull he conceives in the case of subjects; and soon after, on this account, and the dread he was liveing in, compell'd to leave America, his native land, and good possessions there, and come to England himself in 1776, by way of Spain, under the protection of a clause in this act, further encouraged thereto from the faith of parliament, virtually pledged in the aforesaid act and restraining bill, to the loyal inhabitants of support and protection, and indemnification of any losses the might sustain in consequence thereof; and there your orator complains to continue in suspense a suffering attendance for years, without pension or appointment, deriveing his support from his capital and interest received thereon, reduced from currency to sterling, and in a dear land comparatively; foregoing all this period the employment of his time and capital, your orator complains, in the lawfull commerce in which y'r orator was before engaged, now loaning and loan'd to Government much in need of pecuniary aid, and in which your orator otherwise should have continued in America, had your orator not been so constrain'd for this great national purpose, to much advantage, as will appear from the annexed statem't of y'r orator's trade, and as this was required under the grevious penalty already stated, bearing singularly oppressively hard, if not unlawfully so, your orator complains, and therefore conceives he is justly and lawfully entitled, under this act and equity of the case, to all losses incurr'd therefrom, as a debt under the head of cost, and as matter of right, more especially as your orator further suffers the loss of every connexion dear and valuable to him, and of his native country from being attained of high treason, as the event of the war and terms of the treaty, your orator complains, prove, and is in contemplation of this restraining and prohibitory law, from the obedience shewn to the same, he believes the solitary instance of a meritorious sufferer likely, in a manner, to prove to him ruin and destruction. Your orator further complains:

That your orator presented to the commissioners appointed to enquire into the losses and services of American sufferers a memorial on the subject of his losses and services, stating these facts briefly, on which he rested and does rest the sole merits of his claim on the crown and justice of the nation, to which your orator complains the turn'd a deaf ear, saying the had nothing to do with it; and on their further telling your orator on his examination that his debts were recoverable under the treaty, his claims for these he withdrew, in hope, if not so in his case, as the were mostly oweing by friends, the would pay them as had been done in some instances, which left nothing before them for consideration, but your orator' claim for his real estate in possession of the State, seized as forfeited under an act of attainder, and since sold, which your orator consider'd evidence, and is evidence, as possession shews, and every paper relateing to his estate laid before them,

and left them not a question to ask; notwithstanding these facts, your orator complains he was wantonly kept in an injurious suspense, respecting any consideration for the same, for more than five years, until the close of the enquiry, ignorant of the cause, and suffering in reputation from the fraud implied, as the commissioners would assign no cause, nor could any be conceived by your orator but this, as must appear to y'r lordship from the facts above stated.

That your orator reasonably conceives, from this twofold suffering and attendance, singularly injurious to him, and partial manner in which justice was render'd to him, under the commission to enquire into the losses and services of American sufferers, and from your orator's rank and consideration in America, and prospects before him, that he is justly and lawfully entitled to all losses incurr'd under the penalty as stated, to the amount, as the value of his time and capital to your orator, to the sum of £75,089 11 10 Pensylva'a currency, being what he might reasonably have made, as the annexed statement of the proffits of your orator's trade will shew, his ledger and letter-book being evidence, includeing some other small losses, justly claim'd and stated; which your lordship, as your orator is wholly without remedy at the common law, will be pleased, with all the circumstances of your orator's case, to take into due consideration, and grant your orator such relief in the premises as of right in equity your orator may be entitled, from the honor and justice of a great and powerful nation, that must ever consider it a disgracefull act to proffit in this manner by the time and talent of a virtuous, valuable, and eminent citizen, required to serve in the grevious manner herein stated, at a time when it has been generous to a weakness, as must now be seen; left in his situation from a shamefull and impolitic treaty, your orator complains, under which your orator had used an early endeavour, at much hazard and some expence, to obtain a restitution of his rights and estate, which your orator told the commissioners, on his examination, he would rather have then any compensation; and now, notwithstanding he may be without civil rights in America, a prisoner, as it were, under the alien bill in England, from this disgraceful treaty, not remedied to him by the bill to enquire into the losses and services of the American sufferers, your orator complains, but the reverse.

And your petitioner shall forever pray, &c.

As the votes or records of parliament are evidence, beg to refer to them for particulars.

[Sent to Mr. Cotes, the Lord Chancellor's secret'y, in Octob'r, 1799, who advised me by letter he had delivered it.]

149.

Matthias Aspden, London, to Thomas Willing, &c.

London, *December 7th*, 1799.

Sir: I wrote to the Bank of the United States in Jan'y last, by a vessell whose sailing, I believe, was delay'd untill the latter end of

Feb'y, if not to March, incloseing a power, agreeable to form, to receive dividends, and am since without line acknowledgeing the receipt of same, which has created some doubts in my mind that my letter may not have come duly to hand; and that I am likely to wait, from this disappointment, some months longer, if not the receipt of another power, before the several years' interest due me on the stock I hold is remitted, which may be conceived is not very pleasant to me. I likewise enclosed them papers relateing to other concerns of mine which the bank might act in if the pleased, and flatter myself with hearing, as it can be done with very little trouble and to advantage, with propriety, thro' their solicitor, the either have or will; and now take the liberty to enclose to them the concludeing part of the history to lay with those papers, which finishes the state of my commercial concerns. The trustees of the college are welcome to a copy for the use of the mathematical school, which may be instructed from it, in seeing theory reduced to practice in a short compass. It will likewise shew that my vessells in England were not so well employ'd, I believe, as some worthy heroes in the States, notwithstanding all that has been reported. This paper, with the others sent the bank, from things that came under my notice in the course of the summer, I have lately enclosed to the chancellor, with an imparlance of the King in his courts of chancery; the ground of it, the unlawfullness of treating subjects as enemies, and takeing their vessells prize, as the vessells of enemies, a measure that affected me, and, I believe, many others, in a very cruel and grevious manner, and does; impolitic it must be allowed, too, and perfiduous, as answerable to God and man, and neither the way to reclaim nor conquer, to any good end. With wishes for a speedy conclusion to the war, and in hope that I may now not be long without a line from the bank,

I remain, sir, your obed't servant,

MATTHIAS ASPDEN.

To the honor'ble Thos. Willing, president of the Bank of the United States, or president for the time being, Philadelphia.

N. B. The above put in the bag at the New York coffee house, of the Tanner, O'Brian, for New York, to be taken away the 11th inst. or 12th. Pr. Lloyd's list the Tanner sail'd from the Downs the 26th inst.

150.

John Woodcock to Matthias Aspden.

SIR: I received your letter. The papers you put into my hands in October last I delivered to the chancellor's principal secretary.

I am, sir, your obed't serv't,

JOHN WOODCOCK.

Lincoln's Inn, March 1st, 1800.

Endorsed—Mr. Aspden, No. 10, Russel street, Bloomsbury square.

151.

Drafts of Letters by Matthias Aspden, on the same sheet.

Sir: As process, in the court of exchequer, is issued on your application in cases of debt to the crown, I am led to send you the enclosed, wherein you will see I am informed the process will be directed out of that court if I do not comply with the demand stated therein, which appears to me an illegal demand, from the return made, which was of interest or dividends on debt oweing to me by Governm't or crown, for money lent at different times with good faith, or more properly, on funded debt bo't; and as Governm't can neither break nor alter contracts made with the public creditors without breach of the public faith, that no right or authority could be given to any person to legally demand a deduction or abatem't of either interest or principal, or any debt contracted on loan; and, therefore, cannot be the object of tax under what is call'd the income bill.

It seems strange to me, and a contrediction that the crown sh'd be able to sue a creditor of the crown—had there been no express provision to the contrary by act of parliam't. I may furth., with respect to myself, that the crown, on a matter stated, is very considerably indebted to me under another head, which I hope one day will be honestly paid, without any matereal set-off. * * *

Sir: Since my [return] from Ireland in Sep'r, 1798, ab't six * * after my embarkation at your port in the Thomas Luscomb, intending for Charlestown, I have been residing in this city and neighbourhood under the alien bill, limitted to the same in the license sent to me Liverp'l, or otherwise I should have pass'd the latter of the winters since at Bath, and avail'd myself of its nearness to have made you a visit at Bristol, particular as I had been much, in the early part of the winter before last, in post'g up, and strikeing the ball'e of several acc't, open in my ledger, and among them that of your late brother, which required much care to do with accuracy, from the acc't of the voyages of my ships being little blended, and not well to be avoided, as acc'ts were bro't in to him; and find, upon strikeing the ball'e, the sum of £1 5, curr'y in my fav'r, the sum my half-brother, J. Hartley, debited him in my books in Philad'a for postage of sundry, with their inclosures, received by Swallow packet, 1776, from which, exclusive, it is clear, exclusive of the this of our acc't ball'e; wether he paid me this postage on my arrival in England, I cannot be clear, as I have neither recoll. nor memorandum of it; will be glad, as you have access to his books, you would advert to his acc't of charges of merchandize, and see if it is debited for this postage, between Decem. 1776, and Ap'l 1777; and inform me, which will be a satisfaction, although of no great consequence. I have made many enquiries here, as Lloyd's list furnish'd me with no information of the Thomas, the ship I embark'd in for Charlestown, and left at Cork, from not thinking sea-worthy, from being very leaky on the passage, had arrived out; but have not been

able to learn, which much inclines to conclude she did not reach Charleston, and that my opinion [of] her sea-worthyness was well-founded, and that a part, if not whole of my passage-money from this, and non-performance of agreement in the attention shewn to my accomodation, should be return'd, and have no doubt, was a complant made to the chancellor thro' a mast. in chan., it would be directed so to be; will be glad when you see Guppy & Arm., and will tell them this still continues to be my opinion, and could wish the arguments may make them sensible of it.

152.

Matthias Aspden, London, to Thomas Willing, &c.

LONDON, *May 7th*, 1800.

SIR: I here enclose you a certificate for five thousand dollars, 3 pr. ct. No. 9188, bo't of Henry Waddington, with a power attorney from him to transfer the same into my name and use, which request your doing, and encloseing me a certificate or certificates, (not exceeding two,) in lieu thereof, directed to me, to the care of Henry Hoare & Co., Bankers, London, (who bo't the same for me;) I should likewise be glad you would enclose a certificate in lieu of certificate No. 3917, for two thousand nine hundred and eighty-six dolls. 49 cts. 3 pr. cts. transfer'd into my name by Thom's Morris, of Philada., or attorney under him, which he wrote me of the 11th Sept'r, 1796, was waiting my order. I received, under cover dated 1st May, a note from Francis Baring & Co., (late John & Francis Baring & Co.,) the bank's acc't of inter't due to me on funded debt, £286 11 3, to the 1st Octob., 1799, (copy at foot;) stateing a deduction from the same of £72 11 10, on acc't of a bill return'd protested, a defalcation unexpected and unpleasant, after the long time I have been without the interest on the debt owing to me; nevertheless I flatter myself from the bank's usual care, it will be replaced with damages; and here have to observe, from the difficulty I can conceive these precarious and hazardous times of getting good bills, the bank has my consent, at their option, untill further advice, either to remit, or invest half-yearly the dividen's due to me, in funded debt, and transmit certificate of the same, in my name, under cover directed to me, as above, which I can sell again if I should want the money, on any occasion while in England, and answer on this account all the purpose of a remittance. It also occurs to me, the period is not very distant, when good bills on America will currently sell in Europe.

The times again, and the restraints I am under, will lead me in a few days to take lodgeings at Putney or Richmond, for the summer.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To the hon'ble Thomas Willing, president of the Bank of the United States, or president for the time being.

153.

Memorandum respecting "the Rt. Hon." M. A.

The right hon'ble MATTHIAS ASPDEN,
of Philadelphia, North America.

A loyal Amer'n sufferer, that was compel'd to leave America, his native land, a minor, in Sept'r, 1776, and a good estate there, and come to England. From the obed'ce he had render'd to the restrain'g bill and prohibi'y act. In sending his vessels, and in furth'r giveing up all his comercial pursuits and engagem'ts in that country, and in every other part of the world, as the latt'r requir'd, under the pains and penaltees therein set forth, (to wit, of his vessels being made prize, or burn'd, if found in port after the time the same limited, for contempt in the one case, and of high treason, if aiding the insurgents in the other.) And done also in full faith in the royal and parliament'y assuran'e held out of protection to the loyal Amer'n subjects, and of a speedy restoration of the public tranquility, and of his return to his native land again, supported and expected from the powerfull force voted, both by land and sea, and comeing out. Was, unfortunately, during the war, wantonly attainted of high treason by an act of the assembly of the State of Pennsylvania, and thereby incurr'd the loss of his estate there, real and personal. And haveing found, notwithstanding the whole of these circumstances, he came within the alien bill pass'd in 1798, haveing given an account of himself as a case under the penalty of it, and, as it appears here, from his not leaveing the said State before the prohibet'y act took place. Contrary to his intention, and occasion'd by the unwarrantable conduct of a house at Cowes, to whom he consign'd a ship of his, the Charm'g Nancy, charter'd for Cowes and one market only, or port of discharge, and loaded to the address of the same, that sail'd from Philadelphia ab't the 14th or 15th of March, 1775. Not arriveing back in due time, as she well might, if this house had made no deveation in the voyage, and merely accedental, it had not bro't the ship within the last act to his total loss of her. He is here led, altho' at this time in England, and heretofore describ'd in the books of the bank, Matth's Aspden, esq., of diff't str'ts, London; and in those of the East India comp'y, Matthias Aspden, esq're, of Richmond, Surrey, to describe himself of Philadelphia, his former place of residence, and to add this note in explanation.

The terms of freight of this ship, and number of lay days (25) at Cowes, and dischargeing port, were indorsed, as customary, on the back of the bills laden.

154.

Memorandum respecting "the Rt. Hon." M. A.

Right hon'ble Matthias Aspden, Philadelphia, North America. Heretofore describ'd in the books of the bank, Matthias Aspden, esq're, of differ't streets in London, say first of Norfolk str't, Strand, in the

purchase of £4,000 3 pr. ct. consols, in the year 1778, or 1779. And in the books of the East comp'y, Matthias Aspden, esq're, of Richmond, Surry. And comeing, he has found, within the alien bill, pass'd in 1798, haveing given an acc't of himself, from his not leaveing America before the prohibit'y act took place, altho' a minor, and loyal Amer'n subject. He is led, as he proposes, to return to Philada. again, his former place of residence, to describe himself as above, and to add this note in explanation, the clearer to shew his being the same person.

155.

"*Authorities to shew that he comes under the alien bill.*"

Authorities to shew that he comes under the alien bill.

1st. The late office of Am'n Com'rs at Lincoln's Inn, and the office where paym't was made of the partial compensation allowed him by the com'rs for loss, his real estate seized under an act of attaind'r of the State Pennsylv. during the American war.

2dly. The Secr'ty State's office. Haveing return'd an acc't of himself, under the harsh penalty of proclamat'n that issued under this bill in 1798, and the Secr'ty State's licence soon after to embark for Charleston in the ship Thomas, at Bristol, which he did; but the ship appearing to him not sea-worthy, as she leak'd in King road, and on the passage to Cork, where she put in to join convoy, he left her, and return'd by way of Dublin to Liverpool, loseing 35 guin's, he paid for his passage, and there had the Secre'ty of State's licence to reside in London and the neighbourhood sent down to him, to which he conformed, considering himself a prisoner under it, in being limited to distance, and did not tell, by any means, to the cred. of the Sec'ty or Governm., as he was [a] grevous Am'n sufferer, and also very considerable public cred'r.

3dly. To the books of H. Hoare & Co., bankers.

4thly. To the books of the Alien office, Crown street.

For further particulars touching the within, he refers to a letter of the same dep. to the govern'r and directors of the bank.

N. B. The levy or income bill will not warr't refusal of paym't, nor can it be supported by any one plain law. Not even the tyrant's plea, necessity, for breach of faith, untill crown again has reassumed or mortgaged, to near the am't of the value, all lands in the kingdom, for the defence of the State.

156.

Matthias Aspden, London, to Tho's Willing, &c.

RICHMOND, SURRY, *Feb'y 26th*, 1801.

GENTLEMEN: My letter when in town, of the 4th Octob'r last, acknowledging the receipt of Mr. Henry Khul's assist's cashier's lett'r of

the 7th Aug't last, enclosing my draft in fav'r of the bank, on the Bank of North America, in Philadelphia, for £376 2 4, Pensyl'a cur'y, return'd with protest, I flatter myself you will receive; duplicate whereof I have since received; and also Mr. Khul's letter of the 31st Octob. last, duplicate adviseing me that Rob't Robston, esq're, would deliver to me a packet containing certificates for 5,000 dols. three pr. ct. stock, in liew of a certificate for that am't, received for transfer into my name, which he has done to my order. Messrs. Henry Hoare & Co., and these since to me, containing two certificates, No. 1,562, and 1,563, dated Pensylv'a, Septemb'r 6th, 1800, each 2500 doll's, and paid to him, as you desired, 5 dol's 15 cts., at 170 22s. 8½ sterl'g; and a further demand, that I could not make out by his letter to me, of 10s. 11½, the whole £1 13 8, which appears to me very high, as I could conceive it to be only for postage, as there was nothing mention'd, and even from Mr. Khul's silence with respect to this, I was more inclin'd then otherwise to conclude there was none, and that the sum mention'd would be his full demand; posibly there may be a mistake; will see Mr. Robson and make enquiry, as it is a tax, if made a rule, and will become a matter for consideration in the price of stock. The weather haveing been open, and being pretty well accommodated in lodgeings, has induced me to continue the winter here, and will to the middle of next month, when I propose to remove to London, and to govern myself afterwards, as the necessity of the case or exigency of things may require, as I have hitherto like many others, on most occasions been obliged to do, and the way at present it seems the remaining years of my life is likely to be consum'd, and little left to choice.

I was sorry to find by your last letter you had not got the certificate desired of Mr. Thom's Morris to enclose me with the others; also to learn at Messrs. Baring & Co., where I call'd the 11th inst. to receive three quart's divide'd due 1st July last, on 10,277 dls. 71-100 cts. three pr. ct. stock, agreeable to advice, that the were still without remittance for the bill of £5,027 16 sterl'g, received to pay divid'ds that the had advised me under the 30th Ap'll last, they had return'd the bank protested. I have no doubt, from your public spirit of the great care of the bank in this respect, yet as time has got long, I cannot be, nor have not been, this some time, without doubts from the precarious and hazardous times we have, and have had, that there would be a loss attend it; and will shew to them how much their care and vigilence is necessary.

In an order given early in Decemb'r last, to buy me £500 India stock, which was executed in Jan'y, high, 220¼. I was rather at a loss, comeing withing the Alien bill, and limitted to distance of what place at first to describe myself, but being here in person, and sufficiently known, I directed them to describe me of this place, (Richmond, Surry,) and as it was agreeable to the truth, which has been a rule with me, save in two or three instances, in the purchase or acceptance of Brittish stock, in one of which the described me of Fenchurch street, gentleman; in the others, after my first description in the books of the

Bank of Norfolk, Street, Strand, esq're, and will, as it has its tendency to strengthen the evidence of signature of handwriting of person, let me be where I may. Excuse the length of this letter.

I am, gentlemen, your obed't servant,

MATTHIAS ASPDEN.

To the hon'ble Thom's Willing, president of the Bank of the United States, or president for the time being.

P. S. I hope the bank file the cheques of customers, as well as letters of correspondents, as is the rule with some of the banks here, being clearly of opinion it will have its uses.

M. A.

(Duplicate.)

Endorsed—To the hon'ble Thomas Willing, president of the Bank of the United States, or president for the time being, in Philadelphia. Pr. the America.

157.

H. Hoare & Co., to Mathias Aspden.

SIR: We are under the necessity of returning the enclosed bill for nineteen pounds 13s. 4d., as we cannot procure payment of the same.

We are, sir, your most obed't serv'ts,

HENRY HOARE & CO.

London, 22d Feb'y, 1802.

MATT'S ASPDEN, esq're.

Endorsed—Mathias Aspden, esq., Richmond, Surry. T. P.

158.

Endorsement by Mathias Aspden on the preceding.

An American gentl'n, formerly a merch't in the city of Philad., of which a native, who not only believed the insurg'ts w'd be reduced, but obey'd the law as required, in sending his vess'lls laden on his own acc't agreeable thereto, (not a time for others to do it,) which broke up his establishm't, and rooted him out of the country, not being able to draw again, legally, aft. 1 Jan'y, 1776, for capital again, not even a part for a support, and compell'd him to leave America in that year, and come to England; placed also on this acc't, and his estate there being seized and in possession under an act of attaind'r, in a very peculiar situation.

159.

H. Hoare & Co., to Matthias Aspden.

SIR: In answer to your favor, the stock standing in your name in the

bank books, is already accepted by us on your account. You will please to acquaint us at what place we shall prepare letters of credit for you. It is desirable that our letters of credit should not be given for a less sum than fifty pounds.

We are, sir, your most obed. servants,

HENRY HOARE & CO.

London, 6th Ap'l, 1802.

MATTHIAS ASPDEN, esq.

160.

W. Bateman, to Matthias Aspden.

SIX CLERKS' OFFICE,
21 *May*, 1802.

SIR: I admit the receipt of your note by Mr. Hoare's clerk, and his calling again for an answer, and if I recollect right, I sent for answer, that I could not give you any other information than I had already given you on the subject of your personal application to me; and that proceedings in the nature of petitions of importance were not recorded in this office, that I ever heard of; I then referred you to Lord Chancellor's Secretary, (with whom you said you left the petition,) as the only person that could give you information respecting it, and so I say now; could I have given you the least information more on the subject, when you troubled yourself to call at the Six Clerk's office, I should have done it with the greatest pleasure, without fee or reward, not considering that as an object, as you unfairly infer to be the cause of the delay.

I am, sir, y'r most obed't h'ble serv't,

W. BATEMAN.

MATTHIAS ASPDEN, esq.

Endorsed—Matthias Aspden, esqr., No. 9, Bloomsbury Sq., from W. Bateman.

161.

Draft of a letter by Matthias Aspden on the same sheet.

GENTLEMEN: Intending shortly to leave England for Italy, thro' France, and embarking at some of the ports on the Medetereanen, I am returning along the coast if a good opportunity sh'd offer, for some part of America within the United States; it presses on my mind, as the Bank of England is body corporate, and as I have an acc't open with the same, I am very justifiable, as the are fully competent, in leaving a power of attorney with the Govern'r and comp'y to receive for the present the dividends on my bank and India stock, as there will be nothing more necessary than to direct one of the cashiers or clarks to call for the warr'ts and pay them in at the bill office, to pass to my acc't, en-

dorseing on the back of the warr't if thought necessary, received by virtue of power from me to the bank for my acc't, and file them, as I could wish every warr. and cheque was, as best way of disposing of them, and as occasions may occur when a reference to them might mutually have its uses. The bank acting by charters of power under these circumstances, and for special purposes, for monies in its own hands, can by no means call'd agency, but only as there is no business can come within the province of the bank more proper to transact and manage than this, nor any more safe from the double security the bank will have in paying them to me again; first, from my signature, and next, from my bills being drawn in favor or comeing thro' some banker or house known to them, or soon can * * * * * *

162.

Henry Hoare & Co., London, to Matthias Aspden, Turin.

LONDON, *5th August*, 1802.

SIR: We have rece'd your favor of the 30th ult., and beg leave to congratulate you on your safe arrival on the continent. We have rece'd your certificate from America, the expence, two pounds 13s. 6d., is charged to your account. As you were in expectation of some letters being left at our house from America, we beg leave to send you the enclosed, and will pay due honor to the bills you advise having drawn.

We are, sir, your most obed't serv'ts,

HENRY HOARE & CO.

MATTHIAS ASPDEN, esq're.

Endorsed—Matthias Aspden, eqs., to the care of Messrs. Torras, Turin. Assigno di porto da Torino e Milan sino Ven'e £28, Venete.

163.

Passport to Matthias Aspden, from Naples, &c.

Don Giovanni Acton, cavaliere dell' insigne real ordine di S. Gennaro, commendatore dell' ordine militare di Santo Stefano, Capitan Generale dell'Esercito, e della real marina, e Consigliere di Stato in attività con intervento in tutti i consigli di Sua Maestaà.

Partendo per e Lomo Mattia Aspden, Americano, per ordine di S. M. impongo atutti li ministri suoi, e officiali di guistizia e guerra, e a quelli, che non lo sono dimando in suo real nome, che non gli diano molestia, nè impedimento alcuno nel suo viaggio, anzi gli prestino il favore, che gli sia necessario per eseguirlo. Napoli, sette Ottobre, 1802.

GIOVANNI ACTON.

Passa per Capua il dig. 8tre, 1802.

CARLO INGALDO. [SEAL.]

Ajur'te Magge.

Reg'to a molo di Gaeta li 10 8bre, 1802.

TNENETE EIUÆPPE,
de Liquoro Comandante.

Gratis. Aeg'to in Portella 11 8bro., 1802.

Vaglia per de er'er giorni.

SERG'TE AIGGIO.

164.

Passport to Matthias Aspden, from Cardinal Gonsalvi, Rome.

[Seal.]

Ercole di S. Agata alla Suburra Diacono Cardinal Consalvi, della Santita' di N. S. Papa Pio VII, Segretario di Stato.

Partendo da Roma alla volta di Firenze il sig'd Mattia Aspden, Americano, lo accompagniamo colla presente, onde in tutti quei luoghi, per i quali dovrà passare, e trattenersi sia assistito in ogni sua occorrenza. Quindi ordinamo a tutti i Ministri dello Stato Pontificio, e preghiamo qualunque Ministro Estero di dargli non solo libero il passo, ma, di prestargli eziamdio ogni opportuno ajuto. Roma questo di 15 Ottobre, 1802.

C. CARD. GONSALVI.

[Seal.]
Valga per giorni otto.
Gratis.

Reg. al. Num. 9187.

Endorsed—Firenzi li 6 Novbre, 802. Vidi. Per Torino.

[L. S.] G. Mozzi.

Visto dal Lequio, commando militare della Piazza di Firenze li [Seal.] 6 9bre, 1802.

GUADAGNI,
Tent e spotto di Piazza.

Visto dono fonclave a Bolongna Icaricla firo adi 7 Nobre, 1803.

G. VIGNOAHI, *Ispettore.*

165.

Gov'r Ellis to Matthias Aspden, "Alle Crocelle; with note by Matthias Aspden.

Gov'r Ellis presents his very respectful compliments to Mr. Aspden, and is perfectly sensible of his polite attention; but his great age and delicate state of health has forced him, much against his will, to renounce all convivial enjoyments, and imposed upon him a very sim-

833.

ple and rigid regimen. He is nevertheless much obliged to Mr. Aspden for his kind invitation, which he would profit of were it in his power. He hopes, however, to have the pleasure of repeating these acknowledgments in person. As to persons in America of his name, he never knew any one, tho' he has resided in and traversed the different provinces of that country with much attention, and still recollects many of its inhabitants with pleasure and gratitude.

Saturday afternoon.

Endorsed.—To Mr. Aspden, &c., &c., Alle Crocelle.

Mr. Aspden presents his complim'ts to the minister of the State, begs to enclose him his passports given him at Paris and Rome, and requests a passport to return again by the way of Rome, Leghorn, and Genoa, intending to set out the latter end of the week, as he finds more health and strength from travelling slowly on, whilst the fruits are in season, then staying long in a place.

166.

H. Hoare & Co., London, to Matthias Aspden, Paris.

SIR: In answer to your favor of the 30th January, we do not find that there is any price in this country for the French Tiers Consolid., and we imagine it would be difficult to meet with purchasers.

Since you left England, no letters for you have been addressed to our care.

The bill you propose drawing from Paris shall be duly honor'd when presented.

We are, sir, your most obedient servants,

HENRY HOARE & CO.

London, 8 Feb'y, 1803.

MATTHIAS ASPDEN, ESQ.

Endorsed—Matthias Aspden, esq., at Messrs. Perregeaux & Co., Paris.

167.

Herries & Co., London, to Matthias Aspden.

Messrs. Herries, Farquhar & Co., presents their compliments to Mr. Aspden, and beg leave to inform him that the dividends on the French funds are now paying.

St. James's street, 28th April, 1802.

Endorsed—M. Aspden, esq., Gloucester street, Queen square, London, 7.

168.

Memorandums of Matthias Aspden on the same sheet.

GENT.: There being no person by the name Aspin or Aspen, at

No. 7, Gloucest. str., Queen square, nor any person lodged in the house the tell me that keep it that went by either of these names, or whose real name was either of these the knew; I think it highly proper the cover and list should be return'd to you again to corr't the mistake in it, or blunder, th [that] has [been] made wilfully or accidentally. I have understood there is or was a family in Buckinghamshire of that name, and have seen myself the name on a door, or door post, in town, and may be many occasionally, if not resident, as the name is not uncommon, some adding all and wall to it.

LONDON, *May*.

SIR: I here enclose you the following certificates for 4,800 doll's of the debt of the United States in the 3 pr. ct. fund, which I have lately bo't, to wit, No. 9670, dated State of New York, July 31, 1801, for 1,800 dolls.; No. 2562, and No. 2563, No. 2664, dated State of Pensylvania, Sep. 9, 1801, for 1,000 doll's each, to transfer into my name, which I request the fav'r of your doing, and to take out other certificates in lieu thereof, in my name, to limit of same, in like sums, which I request you will keep safe in your possession untill you either see or hear further from me respecting the same; intending if my health is not worse, which is but indifferent, embarking for America in the course of a few weeks; perhaps as all my old friends may not be dead, you may be ask'd if you had understood what was my complaint; I will just mention, for information, it is a kind of a diabetes that I [have] been attack'd with from my youth, the effect I believe of want of sleep, particularly since the commencem't of the American war, which seems [to] me to have at last to have come a wasting of the flesh; and at times have been somewhat inclin'd to ascribe this want of sleep, the cause I judge of it, to the malignancy of some evil disposed person or persons, who can work in this way with evil spirits; although during the time I was in France and Italy, and since my , ab't the middle of March, I have slept better for a continuance than I can remember to have slept for this thirty [years] past; which leads me to hope, if can recover flesh, I shall get the better of it, and will be matter for the further exercise of my thoughts. I am sorry another foolish war has broke out, and cannot imagine, from the wisdom of it in any shape or respect, it can be of any long continuance.

I am.

169.

Matthias Aspden, London, to Messrs. Perigeaux, Paris.

LONDON, *May 24th*, 1803.

GENTLEMEN: Being inform'd yesterday that the communication was open again between Calais and Dover, I avail myself of the first mail going to acknowledge the receipt of y'r letter of the 14th inst't, encloseing me your draft for £18 10s. sterl'g, for 6 months interest, commiss'n, &c., deducted on 18000 livers, 5 pr. ct. tiers consolid.,

present am't of debt owing to me in that fund, which, I have no doubt at maturity, will be duly paid. I am glad the communication is open again, and sincerely hope it will continue, for any cause it appears to me there is for the two countries going to war. Surely nothing can be more weak and absurd; nor any thing more like thumping heads again stone walls. The good offices of a mediator are often usefull in cases like these; and I hope the will prove so in this.

I am prepareing and about arrangeing my affairs for embarking for America in a few weeks, if my health is not worse, which is but indifferent; and shall, if I go, take an early opportunity on my arrival there of adviseing for governm't and render of services. Wishing you health, and the blessing of peace, I am, gentlemen, your obed't servant,

M. A.

To Messrs. Perregeaux & Co., bankers, Paris.

170.

Matthias Aspden, London, to the President of the Bank of the United States.

London, *June* 1*st*, 1803.

Sir: I here enclose you the following certificates for 4,800 doll'rs of the debt of the United States of America, in the 3 pr. ct. fund, which I have lately bo't, to wit, No. 9670, dated State of New York, July 31st, 1801, for eighteen hundred dollars; No. 2562, No. 2563, No. 2464, dated State of Pensylvania, Sept'r 9, 1801, for one thousand doll'rs each, to transfer into my name, with the power of attorney for that purpose, and to take out other certificates in lieu thereof to am't of same, in like sums, which I request you will do, and keep them safe in your possession until you either see or hear further from me respecting the same, as I intend, if my health is not worse, which is but indifferent, embarking for America in the course of a few weeks; probably as my old friends may not be dead, you may be ask'd if you had understood what was my complaint; I will just add, for information, it is a kind of diabetes that I have been attack'd with from my youth, the effect, I believe, a good deal, of want of sleep, particularly since the commencement of the American war, and seems to me, at last, to have come to a wasteing of the flesh, and have been at times, inclin'd to ascribe the cause to the malignancy of some evil disposed person or persons, who can work in this way with evil spirits; or it may be, as friends say, a punishment from above for going from the truth, which I will not dispute with them at present; during the time I was in France and Italy, and since my return to England, ab't the middle of March, I have slept better for a continuance than I can remember to have slept for this thirty year past, and leads me to hope, if I can recover flesh, I shall get the better of it, and will hereafter be a matter for the further exercise of my thoughts.

I will be glad, in case I should not go to America, of a line by the first direct conveyance, adviseing me of this debt being transfer'd into my

name, directed to me, the care of Henry Hoare & Co., bankers, London.

I am sorry another foolish war has broke out, and cannot imagine for the wisdom of it, in any shape or respect, it can be of any long continuance.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To the PRESIDENT, for the time being,
of the Bank of the United States.

171.

H. Hoare & Co., London, to Matthias Aspden.

SIR: Agreeably to your request, we enclose a letter of credit on Lisbon, for two hundred pounds.

We are, sir, your most obed. servants,

HENRY HOARE & CO.

London, 26th July, 1803.

(Return'd, not going.)

MATTHIAS ASPDEN, esq.

172.

H. Kuhl, Philadelphia, to Matthias Aspden, London.

BANK OF THE UNITED STATES,
Sept'r 5th, 1803.

MATTHIAS ASPDEN, esq., *London.*

SIR: Your letters of 1 and 18 June, inclosing certificates for $4,800, 3 pr. cent. stock, and for $2,800, 8 pr. cent. stock, and powers of attorney authorising transfer of the same into your name, have been received. They have been transmitted to the proper offices to be transferred.

As it is your intention to come to America, remittance of the future dividends on your stock will be discontinued to be made to London.

I am, sir, y'r ob. ser't,

HENRY KUHL, *Ass't Cash'r.*

Endorsed—Matthias Aspden, esquire. To the care of Messrs. Henry Hoare & Co., bankers, London. Pr. packet Townshend.

173.

Henry Hoare & Co., London, to Matthias Aspden, Liverpool.

SIR: We have received your favor of 17th inst., and are happy to learn that you find in Liverpool convenient sea-bathing. We enclose fifteen pounds in bank notes, agreeably to your wish.

The draft on Mess. De Berdt & Co. has been repeatedly presented, without success; we conceive the most likely method of bringing your claim on them to a termination would be by putting the affair into the hands of your solicitor, to whom we beg to refer you on the subject, it being quite out of our line of business to enter into it.

We are, sir, your most obedient serv'ts,

HENRY HOARE & CO.

London, 21st Sept., 1803.

MATTHIAS ASPDEN, esq., *Liverpool.*

174.

List of balances due Matthias Aspden, with remarks.

List of balances includ'g bond debts, taken from my ledger that appear to be owing to me.

		Principal.	Prin. & inter.
1774. Nov'r 3	Bonds on, Joseph Wharton's, int. a £6 pr. ct., May 3, 1775, to June 3, 1803.....	£280 0 0	£751 16 0
1780. Mar'h 28	Do. John Will'm Miller's, int. from Mar'h 28th, 1780, to June 3d, 1803, a £6 pr. ct.....	22 0 0	51 14 9
1774. Aug. 1	Bills and notes on John Whitall's, a ball'ce Aug. 1st, 1774, to June 3, 1803, a £6 pr. ct.....	14 17 0	25 13 4
1776. Oct'r 15	Biclet and La Coudre, Hispaniola.....	1 2 6	
1776. Feb'y 24	John Pasquier, do., int'st from this date to do., a do.....	124 18 0	326 14 9
Do.	Do. int't on ball'ce previous to this date, from Sept'r 1, 1775, to 24th Feb'y, 1776....	.....	5 16 11
Do.	Sundry persons, (acc't of).....	53 10 9	
1776. Jan'y 1	William Bradford, for premms., int'st from Jan'y 1, 1776, to June 3, 1803.....	216 2 6	571 4 9
1775. Jan'y 1	Estate of Richard Tyson.....	4 14 11	
Do.	William Milnor.....	2 18 4	
1775. June.....	Mons'r Barrere, (of Hispaniola).....	2 2 10	
Jan'y 1	Walter Shee, for premms., int. from Jan'y 1, 1776, to June 3, 1803.....	18 15 3	49 12 3
1776. Jan'y 1	Mons'r Malinon, Hispaniola, from this date to do.	30 0 10	79 14 10
	Hugh and George Roberts.....	4 19 6	
1775. March....	Samuel and Thomas Murdoch, int. from 1 Ap'll, 1755, to do.....	10 5 4	27 10 11
March....	Crosbee & Sedgwick, of Antigua, int'st from 1st Ap'll to do.....	30 0 0	80 14 3
May.....	Benj. Dunn.....	1 12 4	
May.....	William Pusey, int'st from 1st June, 1775, to 3d June, 1803.....	9 8 9	26 0 0
Decem. 31	Thomas W. Smith, int'st from this date to do..	56 15 0	150 2 4

LIST—Continued.

			Principal.	Prin. & inter.
May	14	Benjam'n Eyre, int'st from 25th June, 1775, to do.....	30 0 0	90 5 10
		Joseph Shewell, for ball'ce of rent of the house I lived in, from 1st May, 1776, to Jan'y 1st, 1782, when seized under the act of attaind'r, £372 16 8; int't due on same, pr. agreem't, to 1st Apr'll, 1784, £79 15 9, pr. my half-brother and attor'y, acc't James Hartley, who let him the house; further int'st on the acc't settled, from Apr'l 1, 1784, to June 3d, 1803, a £6 pr. ct., £520 13 11.....	452 12 5	973 6 4

Further debts from my ledger, oweing to me, stated as circumstanced.

					Prinp'e	Int. & Prin'e.	
1776.							
Jan'y	24	Thomas & Isaac Wharton, for prem'ms,	357 18 4½				
Feb.	8	Cash received of them on acc't.....	150 0 0				
		Int's on this ball'e, from this date to June 3d, 1803.....			207 18 4½	548 14 10	
April		Thos. & Isaac Wharton, time of a serv't, int's May 1st to do.....			10 2 0	26 8 6	
1780.							
Feb.	12	Do. for furniture, at sale of my household furniture.....			24 0 0	57 4 0	
						242 00 04½	634 7 4

The following is the entry I deemed it proper to make under their acc't in my ledger, from which it will appear the above is a true ballance:

"Apprehend the cred't given above, by insurance by my attorn'y James Hartley, for two losses, to wit, £98 on schoon'r Rebecca, Jno. Lovell, mast'r, Philada., to Madeira, for Hen'y Hill, policy dat'd 22 March, 1775, said to be missing; and the other of £145 10 on sloop Sea Flower, —— mast'r, Porto Rico, to the Havannah and St. Eustatia, for Merideths & Clymer, said to be lost, policy on the latt'r, pr. their acc't dat'd May 4th, 1775, is erroneous, for want of sufficient authority for the former, and proof thereof of the latter."

1775, Aug'st. James Mackenzie & Co., Cowes, ball'ce ship Charming Nancy's fr't 6th voyage, int. from 29 Aug., 1775, to 3d June, 1803, £19 18 4½, a 166⅔ 32 7 4¾ 86 15 2

1777, Jan'y 7.* Do. For 25 days demurr'ge, a £4 ster'g a day of said ship, 6 voy'e, from the captn's information, and their lett'r to me at Bristol, of this

*Note. This demand on J. M. & Co. is not included in my list of debts in my claim for losses incurred under the penalty, in my petition of imparlance of the king, sent to the chancellor in Octob., 1799.

date, informing me the ship would [have] been discharged in proper time, (to wh'm she was consign'd, and cargoe on fr't,) but for the accident of some tar damageing the wheat in the hold, again which they had retained it, and the ball'ce above of fr't, and appears to me a mistake, as there was no tar on board, but perhaps a barr'l or piece of a barr'l for ship's stores, which if it had got stav'd or leak'd out on the fore peak, could hardly have run thro' the deck or down the foremast, wedged round and caulk'd water tight; and therefore appear plain if it was damaged with tar, it must been damaged before it was put on board; and which their taking no survey to ascertain the damage, and prove it, fell on ship to give them a right to retain it, further confirms. She arrived at Cowes, from Philad'a, pr. Lloyd's list, the 23d Ap'll, and returned back the 28th August, time enough for there being forty days demurr. due particularly as the were not warranted by the bills of lading, and discharge a part of the cargoe at Cowes, and sending the ship to a 2 port, with the remainder Southampton as the did. I have been to Southampton differ't times, and to Cowes, for the purpose of seeing them, and to get the money, and call'd upon them in London, and drawn upon them; and last of all, ab't eighteen months agoe, applied to an attorney to enter an action, but have not been able to succeed; and as the freighters, Willing, Morris & Co. are liable over to me as their agent in this respect, of whom I might recover'd, could I have gone back on peace being made in 1782, it appears a fair *to* debt to claim is, inter'st on same from 39th Aug. 1775, to June 3d, 1803, exc. 166⅔

£100			166	13	4	444 7 4
1781, May 18th. Joseph Rice, of Philad'a, cash lent him in London him, inter'st from this date to June 3d, 1803, £25 sterl. exc. 166⅔			35	0	0	81 5 9
1780, Oct. 27th. Joseph Harrison, ball'ce from accept'ce and payment of drafts between this date and 29th Jan'y, 1787. Int't from May 21, 1784, a 5 pr. ct. to do. on acc't of debts ariseing in England, a 166⅔,						
£208 2 10			346	18	9	676 19 4

This ball'ce above of Jos'h Harrison's (nephew of the half-blood) arose at first from a bill he drew on me in fav'r of Sam'l Pleasant for 100*l.* ster'g, of the 11th March, 1780, which I was led to accept from this, and from a power of attorn'y he gave me in 1776, on my comeing to England, then lately come of age, to settle and receive of an agent in Cumberland, who had the care of a small copy-

hold estate in that county of 24*l*. pr. annum, that had come to him as heir-at-law, the rent of which he had not paid to his guardian's (his mother) correspondent in London as directed, for several years past, and which he had refused to acc't to me untill October, 1780, after, I believe, the receipt of a second power thro' the lines to sell the estate, &c.; and from a credit given to his brother, who had come to Amsterdam, 1781, to go into a accompting house, advances again to this brother in London in 1784, when I was useing, and had been, my endeavours to be restor'd again to my rights and estate in America; and also from acceptances of his drafts, in the whole, between this date and 29th Jan'y, 1786, to the am't of 2,030*l*. sterl'g, and remittances between Decemb'r, 1783, and the 31st Aug., 1786, to make provision for part of these acceptances, some of which went back protest'd to the am't of 1,145*l*. 19 6 sterl'g, and kept me more or less in advance to him, who has since proved insolvent, and the money I may say lost, which I am persuaded would been otherwise if I could gone back on the return of peace, and more then probable I should have saved him from ruin; which leads me to consider it a fair debt to claim.

A note of hand given at 3 months by my half-brother and attorn'y, James Hartley, Decem. 6th, 1791, for 254*l*. 3, the ball'ce of his acc't ariseing from my leaveing my affairs in hands upon my comeing to England in 1776, which I am persuaded would been otherwise if [I] could have returned on peace being made, and lays at this time at the Bank of North America, in Philad'a, I understand, unpaid the last acc't. He died in October, 1801, in what circumstances I do not know; if in insolvent, and this money should be lost, this then I should consider a just debt to claim, and with interest upon it to June 3d, 1803, amount to £423 1 3

£2,189 10 9 5,133 19 4

Note.—This list of debts was made out to lay before the commissioners sitting under the late convention with the United States of America, to know, as the commissioners for the claims of American loyalists, had not allowed his claim of debts, from their being recoverable, they said, under the treaty; if they could give him relief in the premises, that he might, in the first place, give information thereof at the chancellor's office. As part of these debts are included in the list sent to him in his claim on the crown for losses incurred under the penalty, with a petition of imparlance of the King, that he might deduct from the same what these commissioners might allow, if his claim was admitted; if not (in the 2d to receive it himself.)

Endorsed—List of ball'ce oweing to M. A. to lay before the com-

missioners appointed to liquidate the debt of claimants under the convention with America—if entitled to relief under the same.

175.

Matthias Aspden to the President of the Bank of the United States.

LONDON, *January 12th*, 1804.

SIR: I have been duly favour'd, pr. the Townsend packet, with Mr. Henry Khul, assis't cashier of the bank's letter to me of the 5th Septemb'r last, acknowledgeing the receipt of my letters of the 1st and 18th June last, enclosing certificates for 4,800 doll'rs, 3 pr cts., and 2,800 doll'rs 8 pr cts. of the funded debt of the United States; and adviseing me the same had been sent forw'rd to the proper offices, to be transfer'd into my name; and also since, duplicate by the Monticello, bringing papers as late as I have seen as the 7th Novemb'r, but no mention made therein of the numbers of the certificates issued in leiw of the others, as requested, or of the needfull being done. Conclude it has, or should have been advised to the contrary; however, it may [have] escap'd recollection adviseing me of the numbers. In expectation of this soon, I here enclose you certificates for 2,700 dollars, 8 pr ct. more, to be transfer'd into my name, with the powers of attorney for that purpose, to wit, No. 10, 400 doll'rs; No. 880, 400 doll'rs; No. 1483, 100; No. 1,061, 400; *No.* 1,061, 400, and 1,346 for 1,000 doll's, which request the fav'r of your doing, and encloseing me pr. a neutral vessell comeing, 2 certificates for 1,000 doll's each, and another for 700 doll's, in leiw thereof, with the certificates of the stock advised of above, together with that in the hands of Mr. Thom's Morris, requested under date of Decemb'r 28th, 1801, for 2,986 49-100 doll's in leiw of No. 3,917, for that sum, directing to me, to the care of Henry Hoare & Co., bankers, London, as it may happen I may not embark for America these very extraordinary and hazardous times, as I propose in the spring.

I am, sir, your obed. servant,

MATTHIAS ASPDEN.

To the PRESIDENT, for the time being, of the Bank of the United States, in Philadelphia.

Perregaux, Paris, to Matthias Aspden.

PARIS, *30th April*, 1804.

SIR: Having received the six months' dividend, due the 22 March last, on your nine hundred francs rent per annum in the 5 pr ct. consols of this country.

From the amount of it	- -	fs.450
We deduct,		
Com'n, and the receiver's fees,	fs.9	
Stamp receipt,	1	

Postage of letters,	3	
	—	13
And for the balance - - -		fs. 437

at the exchange of 24-90, we have this day remitted to Messrs. Henry Hoare & Co., for your account, our bill of the same date for £17 11 on Messrs. Ransome, Morland & Co., by which your account with us is thus far balanced.

We have the honor to be, sir, your most obed. and most hum. servants,

PERREGAUX.

Matthias Aspden, esq.

Bills remitt'd to H'y Hoare & Co. from Perregaux & Co., dated Paris, Nov. 2, 1804, at 1 mo., due 5th Decem., £17 12, for ½ y's divid'd on 18,000 livr's, 5 pr ct. in the tiers consols.

Exch's 24 75.

Endorsed—Matthias Aspden, esqr.

177.

Matthias Aspden to the President of the Bank of the United States.

LONDON, *July 26th*, 1804.

SIR: I have duly received the assis't cashier of the bank, Mr. Henry Kuhl's, lett'r of the 5th Sept'r 1803, acknowledgeing the receipt of mine of the 1st and 18th June, 1803, encloseing certif'ts for 4,800 dol'rs, 3 pr. cts., and 2,800 dol'rs, 8 pr. cts., with powers of attorney, authorising the transfer into my name, and also his lett'r of the 20th April, 1804, and duplic'te, enclosing me certif'ts for 4,800 dol'rs, 3 pr. cts., and 2,800 dol'rs, 8 pr. cts., in leiw of those forwarded you under the dates above, and for 1,900 dol'rs in leiw of part of 2,700 dol'rs, 8 pr. cts., forwarded you the 12 Jan'y last, further adviseing me the remaining sum of 800 dol'rs will be forwarded me as soon as received from the proper offices; this, as some time has elapsed, I am rather anxiously waiting the receipt, particularly as I am now better in health then I have been, and pretty well arranged my affairs for a voyage to America, and have mention'd as much upon 'change, and in other places, significantly enough, had the mast'rs of any of the vessells going, come a little forward, to know if I had any commands, or was desirous, or any of my friends, of going to their part of the world, which would be some little encouragem't to venture, after the disrespectfull and inhumane treatment I have experienced in crossing the Atlantic. As it cannot be conceived old owners like to force themselves, or to show an eagerness to risk their lives, and quit a climate like this that they have been accustom'd to for more then seven and twenty year, not knowing how soon the weight of affairs may require their presence back again, and this without a tooth in their head they

can crack a biscuit with; as it might be fatal, should they happen to meet with the passage I have once done, of being at a quart of water a day for near seven weeks, and seeing the people sucking it out of the bottle, thro' a quill in the cork; and with this recollection of the matter, that what is, is, and what has been, may be, it w'd make them pause before they committed themselves to go with they know not whom, and scarcely know not where, or who is a going. I can only say, I am pretty well ready, but not very eager, as times are.

I have lately been inform'd at Messrs. Baring & Co., that the bank had advised them that they had not remitted the divid'ds on my stock from my haveing wrote them I was comeing over to America. This was my serious intention, pr. some of the neutral or half-neutral vessels going last summer, nor is my mind alter'd; and had fully determin'd to go in the August pack't, haveing provided for the purpose, and my trunk pack'd up to send off the day I went to the India house to sign a power of attorney, agreeable to instructions I had given, where I was inform'd some objections had arose to it, (frivolous,) that they could not do it; this occasion'd some delay that made it rather late, and with some other considerations weighing, led me to give it up. What I have already mention'd in this letter on the subject the bank will please to note; and least I sh'd not meet with an inviteing oppertunity direct laterally, for embarking, as the summer is advancing, I request the bank, on the receipt of this, will lay out the am't of my divid'ds to the 1st of this month, in the 3 pr. cts., if to be bo't at 50; if not, in either the Louisiana or the 8 pr. ct. stock, as may be the cheapest, and send me the certif'ts for the same to the care of Messrs. Henry Hoare and Co., bankers, London, advising of cost, and chargeing my acc't with the same.

My disappointment at the India house made me regret that I had not bo't America stock instead of India, and certainly should have done, had not I been discouraged from the deductions to my divid'ds on acc't of bills return'd. On those alone to the 1st Oct'r, 1799, there is due me at this time £55 6 10 for bills return'd; nor can I avoid observeing the charges on the last certificates sent me, herein mention'd, came high, having paid to Mr. Robert Robson £4 1 6, including his and the bank's charge; wish'd a note of particulars for govern-m't had been furnish'd me.

Could it been foreseen, when I came to England in 1792, I should have continued here so long I should been glad to have made a tender of my services to the Presid't and Congress in the diplomatique way, flattering myself I should neither been incomp'tent to the task nor unworthy the trust; and am inclin'd to think I could have render'd my country services. It would found one advantage in it, from my circumstan's in Europe, I should have stood in little need of the favor of credits, and those very good.

At Naples it appear'd to me they had no idea the best cotton that came to Europe came from Georgia, perhaps from too good an opinion of the little matter they raise in the neighbourhood.

I have a notion I have a right to a house in Coomb's alley, if not to other interests in or near Philadelphia, as residuary legatee to my father's estate, or his heir—if the will was a nullity.

Thumping heads again stone walls goes on; hope their eyes will be open to the folly of it soon, if to no other idea of it.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To the PRESIDENT, for the time being, of the Bank of the United States, Philadelphia.

I have just understood, not adverting to it, the want of a stamp to my petition * * imparlance to the chancellor of the King, &c., sent to him as advised thro' his secret'y, in Oct'r, 1799, re * * a claim of debt on the crown for losses incurr'd under the penalty has been fatal to it. Let them, with the Lord at my right hand, I hope, and shall endeavour to keep him, take this advantage of a stranger, if they will (without notice) as its awkward to go a begging with cases.

I have another matter between myself and an individual of the year 1775, *were* both counsel and different attorneys differ with me in opinion with respect to remedy. Setting up the plea of time, in face of the treaty of peace, and evidence of the debt, rather of a qui tam. nature; as it respects the ball'ce of a ship's freight, with the demurage retain'd, said on acc't of an "accident of some tar," (from a bar'l or piece of a bar'l ship's stores,) damageing the wheat in the hold, without authority taken to shew for it, and a deviation in the voyage, makeing two ports of discharge instead of one, Cowes and Southampton; principal cause of ship's detention, and from the event of things, singularly fatal to me; nor can I be charged with neglect, particularly as there was deceit in the case.

Allowing full lay days, and six more to ballast, the ship might [have] been in six weeks sooner, and had eight weeks passage within one day. (She arrived at Cowes, pr. Lloyd's list, the 23d of April, and back at Philadelphia, the 28th Aug't.)

Endorsed—To the President, for the time being, of the Bank of the United States, in Philadelphia. Pigou.

178.

Matthias Aspden, London, to James Hartley, jun'r, Haddonfield.

LONDON, *August* 7, 1804.

DEAR NEPHEW:

I should have been as good as my word when I wrote from Italy, in Octob'r, 1803, and wrote you sooner, had I not proposed from time to time, on my return to England the March follow'g, to embark for America in the course of the summer, and had fully fix'd goeing in the Aug't packet, finding but little encouragem't by neutral or half

neutral vessells, and had provided accordingly, and my trunk pack'd up to send away the day I went to the India house to execute a power agreeable to instruct'ns I had given for that purpose, when they told me some objections was made to it, (frivolous and ridiculous,) that it could not be done; which occasion'd some delay that made it rather late, and other considerations weighing, led me to give it up; my trunk continues, notwithstanding, unpack'd; and has been laying at my bankers since Jan'y, ready for embarking, which I was in hopes of before this, and should, as I made both my readiness and inclination publickly enough known, had any of the mast'rs going, by enquireing if I had any comands for their part of their world, give me a little encouragem't to venture, as I have nothing now, under all the circumstances of the case, to make me very eager; long accustom'd to this healthy climate, considerable affairs here that demand my frequ't attentions, and may call again for my return; loss of teeth, added to the barbarous and disrespectfull treatm't I have met with (and a benefactor,) in crossing the Atlantic, will sufficiently shew. Could the things that have happen'd since I left America been foreseen, I certainly sh'd [have] staid where I was, and not unlikely, it some how strikes me, if I had, but there might been more of peace then war.

The weather proveing bad at Leghorn, that I could not go by water in the open boats to Genoa, I return'd thro' Parma to Turin, and crossing the Alps, had like to have perish'd from a heavy fall of snow, as we ascended Mount Cenis near dark, and became so deep, with what had fell before, as to cause the mules to lay down twice; the 2d time, luckely, near the top, we were obliged to unload them, and leave the things, except my portmanteaw, that I drag'd to a house not far off, where they had heard us, and shew'd a light, that was finishing repairing when I cross'd, and appear'd to me had become inhabited since; otherwise, if this had not been the case, or our mules had laid down a little lower down, the consequences might [have] been fatal; and bro't to my recollection at the time, which I observ'd to one of the company, the melancholy perishing of a great part of the army of Julius Cæser or Hannibal, crossing the Julian Alps, a pass not so dangerous [as] this. At this house we staid all night, and the next morn'g set out over an untract road, directed by the guide post ab't 2 miles or better, to where the Alps descend quick, and came down in ab't twenty minutes, and on reaching Lyons, as the roads were very bad, after four days stay, went down the Rhone to Avignion, takeing a bottle of the famous hermitage at dinner, at a place near its growth, in our way down. At this place (Avignion,) saw a good many Philadelphia looking faces, and relations I am pretty sure, of Anna, that many years agoe lived with my aunt Bailey, who had a claim, poor woman, on the privy purse, on more acc'ts then one, and no doubt something suitable w'd been allowed her, had some of the fine fellows here ab't the court, who knew her then in her better days, and her family in this country, prefer'd her claim for her. Anna afterwards married and lived at Evesham; am inclin'd to think I also met in Italy old Conrad, that lived

with her ab't the same time, and used to carry me to school on a pillow before him, or a cousin of his, at Naples; I have some notion I met with relations of John Gill; also at a convent on Mount St. Elmo, an inskeep in the habit of a friar; at Padua a Cox, with some New England long faces; on the way to Rome, a Lipencot; and at this place, relations of my neighbor, the razor-grinder's wife, who pass'd for Germans; at fat Bologna, relations, I conclude, of his next-door neighbour's wife, (Steph'n Shewell,) if he is not himself a Welchman from that quarter; of the Lawrences at Cremona, and Milan, and Turin, some old Philadelphia and New York faces, that probably pass'd there for very good Welchman and Dutchman, not forgetting from his face at Blois, in France, a relation, I am pretty sure, of Abrah'm Liddon's wife, and so on, &c., my tour through.

I have seen nobody these several years past from Philad'a or your parts, to have any conversation with them; such is their kindness, when they come to this part of the world, that I am ignorant how you are, and how you and yr. cousins, and yr. and their nephews and nieces are doing; I hope well, and that you and they look to yourselves for this, as much as you can by an orderly conduct and sober endeavour; having the word of the promise, that these do not fail in that respect. It was not so much on acc't of my circumstances, as my being known to be a youth of integrity, that led friends in the West Indias, in their consignm'ts, to place the confidence in me they did. The weight and price in the sales I render'd agreeing with the price and weight in my books, and those with the weights at the public scales; the same with respect to gage and measure, and my books evidence.

The considerable sum in stock I hold, shews both the confidence and interest I have in the American Governm't and welfare of the country, and gives you and other my relations a claim to such places as you and they can fill with propriety, and on acc't of your or their health or circumstances you might stand in need, which I hope will not be forgot.

I propose, towards the end of the month, if nothing sh'd occur to hinder me, trying the warm baths at Buxton, not a great way from Liverpool, which I hope, as my health is better then it was, will tend to perfect it.

Below is an epitaph that will do for yr. uncle James, my late unnatural half-brother, if there sh'd be none on his tombstone, and I am afraid for too many others in the world and gone. With my kind remembrances to all friends and relations with you, liveing.

MATTHIAS ASPDEN.

Call me not to strict account,
How I have lived here;
For then I know, right well, O Lord,
Most vile I shall appear.

Mercy, Lord, I ask,
This is the total sum;
Mercy, Lord, is all my suit,
O, let thy mercy come.

I have some idea, as my father's residuary legatee, I have a house left me in Coomb's alley, formerly his stable, when he lived in Market

street; and also a water lot in Philadelphia, down town, if not to other interests in Pennsylvania.

I hope Thomas Redman is sensible, by this time, I sold my estate at Haddonfield to him, a minor; and certainly that not knowing it myself.

Endorsed—Mr. James Hartley, Haddonfield, State of New Jersey. Active.

179.

Matthias Aspden, to Robson & Gill, London.

Mr. Aspden's complim'ts to Messrs. Robson & Gill; wish'd to give them furth'r time to consider of the matt'r referr'd to them, he did not call again yesterday; and has to remark, if it is worth 2 if not 3 pr. ct. to insure or guaranty 8 pr. ct. for a twelve month, free from any loss in the remitt'ce of it, or bare chance, what is the value of stock here that does not pay more than 5 or 6 pr. ct. int't, clearly not more then 70 or 80 pr. ct. to a holder in England; yet I am charg'd at the rate of 106 for it, without the divid., say 108 or more. But giving this 2 if not 3 pr. ct. cannot, with propriety, scarcely be reckon'd for more than 6 months, and this on a ½ yrs. divid'd, £4 pr. ct., paying no more inter'st than 3 or 4 per ct. pr. annum, of course, reduces the value of the stock to 30 or 40 pr. ct. in strictness to holders in England; and, therefore, to give the price that I have done for this stock appears a gross imposition, if that is to be the prem'm to be give for the remitt'ce of the int't free from loss.

As this was Dutch stock, and the int. most likely paid in Holland, it is a matter of enquiry to know if there w'd be any risk run, as a general thing, in the market.

To make it of this value, it must charge the bank with scandalous neglect—say the prem'm.

Orange str., No. 5 Red Lyon sq're, Thursday, Novem'r 15, 1804.

Endorsed—Messrs. Robson & Gill, Change alley, Cornhill.

180.

Thomas Morris, Philadelphia, to Matthias Aspden, London.

PHILADELPHIA, *9th mo. 16th*, 1805.

Respected friend, MATTHIAS ASPDEN:

Thy letter, dated "London, July 8th, 1805," came to hand the 4th inst. in my absence from home, on an excursion to the sea side for the benefit of my health. I have this day, in conformity with thy directions, deposited in the Bank of the United States the certificate belonging to thee which was in my possession, and for which I have taken a receipt, a copy whereof follows:

"Bank of the United States, September 15th, 1805. Received from

Thomas Morris, esq., a certificate, No. 2,473, dated 2nd Septem'r, 1795, for twenty-nine hundred and eighty-six dollars and forty-nine cents, three pr. cent. stock, assumed debt, in favour of, and at the credit of, Matthias Aspden, formerly of the city of Philadelphia, merchant, &c., &c., agreeably to his letter to the Bank of the United States, dat. 8 July, 1805.

"HENRY KUHL, *Ass. cash'r.*"

The expense incurr'd in procuring the transfer, brokerage, postage, &c., &c., I leave, being glad to be divested of further care in this concern, which thou knowest I engaged in with reluctance, and only because I believed that returning the business unfinished to thee, in the first instance, would have deprived thee of the right to interest on the certificate until it could be done by another, which would have required considerable time. Having many years since resigned my brewing business to my sons, and much withdrawn myself from the cares and fatigues of very active life, I have had but little knowledge of thy brother Hartley's affairs; yet, if I rightly remember, Peter Thomson and Rees Brooke were his executors; to them I would recommend thee for information on the particulars alluded to in thy letter.

I am sorry to inform thee that an epidemick disease, thought to be imported from the West Indies, is now raging in the district of Southwark, and may not improbably be convey'd into the city, by the very imprudent intercourse kept up between us. This fatal disorder I am afraid will not cease to be frequently known in our principal seaports, as long as the war is continued in the West Indies. New York is at this moment also very severely suffering from its ravages, tho' most of the inhabitants have fled. Our city is as yet favour'd to be much exempt from it, tho' some cases have been brought from the district, yet in no instance that I have heard of has the disease been communicated in the city from the sick to the well.

With best wishes for thy welfare, I remain, affectionately, thy friend,

THOS. MORRIS.

Endorsed—Matthias Aspden, to the care of Hoare & Co., bankers, in London.

181.

Henry Hoare & Co., London, to Matthias Aspden.

SIR: We have received your letter, containing one addressed to the India company, which shall be forwarded; but we beg leave to observe that the tax was not inadvertently paid by us, but deducted, by order of the directors, from the dividend.

We are, sir, your most obed't serv'ts,

HENRY HOARE & CO.

London, 13 Dec'r, 1805.

MATT'S ASPDEN, esq're.

803.

182.

Dan'l Clymer, Lancaster, to Matthias Aspden.

MY DEAR OLD FRIEND: You address to me at Lancaster. I live down in Berks, in the township of Cærnarvon, adjoining Morgantown. I know your hard treatment; I am confident, as you are entitled to, you will have justice done you. Come over in the spring; if you call on me I will put you in train for gaining your rights. Immediately, this day, the moment I opened and read your letter, I call'd on Governor McKean, he lives here, the seat of government of Pennsylvania, and communicated its contents to him; as he drew the act of attainder in 1777, he will, I am sure, as the chief magistrate of Pennsylvania, attend to your case. I do not practise the law, having retired from business and the world, I may say, for 4 years. I will assist you, as being thoroughly convinced, from the present temper of the times, that justice will [be] dealt out, and that, too, liberally. Wishing *I* happy, and success to your native country, is the sincere wish of your old friend and companion, DAN'L CLYMER.

Lancaster, Jan'y 31st, 1806.

Should I not be in Philad'a on your arrival there, my request is you call on my friend Edward Tilghman, esq., counsellor at law, (Mr. Chew's son-in-law;) he is, I think, as able a lawyer as any in America, to attend to your claim—he is a gentleman; I know him to be honest; he will assist you, and that too without extortion.

Do give my love to my friend Mr. Wm. Cobbett and Mrs. Cobbett.

Mr. MATTHIAS ASPDEN.

183.

Henry Hoare & Co. to Matthias Aspden.

SIR: We are favor'd with your letter of yesterday containing the enclosed certificate, which we return, as it will not serve the purpose for which you intended it, as the dividend on your East India stock was paid on the 9 inst., after deducting the property tax; the only method to be pursued towards recovering the same is by making an appeal to the commissioners acting under your district.

We are, sir, your most obedient servants,

HENRY HOARE & CO.

London, 15 July, 1806.

Enclosed is a letter which we have rec'd for you.

MATTHIAS ASPDEN, esq.

184.

Matthias Aspden, London, to the President of the Bank of the United States.

LONDON, *July 21st*, 1806.

SIR: These are to acknowledge the receipt of Mr. Henry Kuhl,

assis't cashier's, lett'r of the 10th of June last, adviseing me of the receipt of mine of 8th July, 31st Decem'r, and 13th Jan'y, with certif'ts for 2,000 d'ls 8 pr. cts., which had been transfer'd, and certif'ts in my name of the following description, (without saying the were 8 pr. c'ts.) had been issued, and will remain in bank as desir'd, subject to my order.

Viz., No. 601 and 602, dated 22d May, 1806, for 1000 dls. each, inter'st from 1st April last, and are enter'd in the Loan office of Pensylvan'a. Charges on the same 8 dls. 17 cts., which the bank will charge to my acc't, and can conclude they have.

As the bank perseveres in being restricted to form, and that evidence does not supersede it at the loan office, I here enclose the bank the power (pro forma,) it appears they are inform'd they want, much regreting I am to be the sufferer from the disappointment, it seems to be I am; and the bank's not being at liberty to purchase stock, it does not say bank shares, I shall, therefore, * nclude the request of my last letter of the 21st June on this head will be complied with; if it cannot, I must send a power to some friend to receive my divid'ds, should I not come over myself, or draw on the bank in favor of some person or persons here or in America.

A master of a ship up for Boston, for whom I left my address, call'd upon me within this fortnight, (or 3 weeks,) and had the modesty to ask me 50 guin's for my passage; three players going in the cabin and three in the steerage; as he appeared to me constituted more of spirit than flesh, not unlikely I might been serv'd as I was when I embark'd some years agoe at Bristol for Charleston.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To the PRESIDENT, for the time being, of the bank of the Unit'd States.

N. B. I can conclude for the bank security Batard & Co. and Baring & Co. have sent my receipts for the divid's paid me on bank shares and stock remit'd to them on my acc't.

I have to remark to the bank here, that the cost of the transfer of this stock in America comes high, £1 16 10 sterl'g. They last sent out on acc't by J. Camerford, 3,000 dls., in the same name and same office, (New York,) cost in America 11s. sterling, exclusive of post'ge to England; and shews there must be some mistake, if there is a rule in chargeing, particularly one of the comp'y.

M. A.

(Copy, except "or 3 weeks," here interlin'd. Original, pr. the Eliza Ann.)

185.

Matthias Aspden, London, to President of the Bank of the United States.

LONDON, *Sept'r 16th*, 1806.

SIR: I here enclose you two certif'ts for five shares in the Bank of

the United States, issued to Timothy Turland, under the seal of the bank, (to wit,) No. 36477, for three shares, and No. 36479, for two shares, to transfer into my name, and to receive other certif'ts in liew thereof, together with a power of attorn'y for that purpose from the executors of the said Timothy Turland, deceased. I request the bank will hold the same in their safekeeping, with my certif't for funded debt in their possession, untill my further order.

I am sorry to learn the yellow fever has again made its appearance with great violence; so much so, that I understand the destination of vessels at Liverpool for New York has been alter'd. I can't say I much regret I did not embark from thence last Sept. for Philad'a or New York, although I was lo'th to give it up; but I much regret, instead of going to Bath last Feb'y, I did not embark for America in one of the early spring ships, as I certainly should had I been encouraged by any of the capt'ns waiting on me to know if I had any commands or any intention of going that way myself, and waited in town purposely. I may add, I have special reasons to regret it, for causes I had no suspicion of then, to wit, the State breaking faith with its creditors, and mulcting them 10 pr. ct. out of their divid's at the bank, and in makeing a distinction without a difference in exempting foreigners abroad, and mulcting those that happen to be in England. I call it mulcting, because taxes are always collect'd under pains or penalties. Sufficient may be concluded from this with respect to my stay in England, without my adding further.

I have received pr. the pack't, Mr. H'y Kuhl's, assis't cashier, duplicate of his last of the 10th June; apprehend there was no neutral conveyance offering, as this would been more certain, and less expensive, a matter he will see the propriety of attendi'g to; if you will please to inform him I am not favor'd in the price of stock or any thing else, as far as I can judge.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To the PRESID'T, for the time being, of the Bank of the United States, Philadelphia.

(Copy.)

Endorsed—To the President, for the time being, of the Bank of the United States, in Philadelphia. Pr. the Thomas, via Norfolk.

186.

H. Hoare & Co., to Matthias Aspden, London.

SIR: In answer to your favor of this date, we can only repeat that we are sorry it is not in our power to prevent the East India company from deducting the property tax on your dividend due the 10 cur't. As you do not consider yourself liable to this duty, it is advisable that

you lay your case before the commissioners, acting for the various purposes of the tax in your own district.

We are, sir, your most obedient serv'ts,

HENRY HOARE & Co.

London, 4 October, 1806.

MATTHIAS ASPDEN, esq., Orange street.

187.

J. Watkins to Matthias Aspden.

OFFICE FOR TAXES,
October 22d, 1806.

SIR: I have laid your claim to exemption before the commissioners for special purposes, who have directed me to inform, that the act does not authorize them to grant exemption from the duty on behalf of any person resident in the dominions of his majesty.

I am, sir, your most obed't serv't,

J. WATKINS,
For M. WINTER.

By order of the Special Comm'rs.

MATTHIAS ASPDEN, esq.

188.

J. Watkins to Matthias Aspden.

OFFICE FOR TAXES,
Nov. 21st, 1806.

SIR: I am directed to return you the enclosed claim, and to inform you the special commissioners are not authorized to grant exemption on behalf of any foreigner residing in British dominions.

I am, sir, your most obed't serv't,

J. WATKINS,
For M. WINTER.

By order of the Special Comm'rs.

189.

Matthias Aspden, London, to President Bank United States.

LIVERPOOL, *June 5th*, 1807.

SIR: I wrote you from London in Jan'y, pr. the London packet, which I am glad to see by Lloyd's list is safe arrived; and since have been in daily expectation of hearing from the bank, and of the eyes and understanding of the same being open to the justice and propriety of my request in that and former letters, on the subject of the bank buying, thro' the agent that buys their bills to remit to Europe, the

am't of my ball'ce in its hands in the stock desired, and keeping the certif'ts for the same untill my further order.

There being no vessell going from London to Philad'a, and many going hence for thence, and other ports in the Unit'd States, I came down here three weeks agoe or better, in hopes of being in time for the Abeona for Philad'a, but was a day or two late. I should have embark'd last week in a ship for New York, belonging to some friends there, if I had not been delay'd in engageing my passage, thro' waiting to see the capt'n of a stout ship up for Boston, and which I believe I may safely conclude was because she was not really going direct to the place she was up for; as was the case I got to learn of another that I had first thought of going in.

Most probably if the gout or gravel, or some other cause, does not hinder me, I shall embark in the packet Scot, for Boston, to sail the latter end of the month, a station'd copper bottom ship, well laid out for passengers; which leads me to write to the bank as a cheque of security if no other use, to inform the same I bo't before I left town, two shares by certificate, to wit, No. 26607, (in the stock of our comp'y, or, in other words,) in the capital or joint stock of the presid't, direct'rs, and comp'y of the Bank of the Unit'd States of America, in Philadelphia, standing in the name of Priscilla Bevan, of Highbury Terrace, spinster, the blanks filled up, empowering the presid't, on receipt, to transfer the same into my name, which I shall bring with me, or forward for the needfull if I should not embark as proposed.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To the PRESID. of the Bank of the
United States of America.

P. S. It is unpleasant to me, a water drinker and an owner, to be ask'd a double price for my passage, which appears to me is and has been the case, from the passengers going. It is neither just, safe, nor lawfull; there should be one price for the cabin to suit generally, and that should be kept to; and one for the steerage. Properly there wants some regulation by law in ships up for freight and passengers, rateing the terms in cabin and steerage, and sum allowed for stores out of it, for those that go in the former, that both extortion and imposition might be avoided or guarded again.

Endorsed—To the President, for the time being, of the Bank of the United States, in Philadelphia. Pr. the Commerce, via New York.

190.

H. Hoare & Co. to Matthias Aspden, Liverpool.

(Copy.) LONDON, 30*th May*, 1807.

SIR: Agreeably to your request we enclose a ten pound bank note, and have requested Messrs. Heywood & Sons to honor your bills if necessary for three hundred pounds. We have not received any money

on your account since you left London, neither have the commissioners of the property tax sent us your certificate.

We are, sir, &c., &c.

SIR: The preceding is the copy of our letter addressed to you, Liverpool, in which we enclosed a ten pound bank note, conformably to your orders; we are much surprized to find by your letter of the 4th inst. that it has not been delivered to you. In pursuance of your further directions we now enclose a bank note for five pounds, and shall hope to hear pr. return of the post that you received it as well as the former £10.

We are, sir, your most obedient servants,

HENRY HOARE & CO.

London, 6th June, 1807.
£5 enclosed.

We shall take measures to stop payment of the £10 note, on hearing again that it has not been delivered to you.

MATTHIAS ASPDEN, esq., Liverpool.

191.

H. Hoare & Co., London, to Matthias Aspden, Liverpool.

SIR: We are favor'd with your letter, and agreeably to your directions enclose a bank note for five pounds, and will apply to the alien office for the purpose of obtaining the passport you desire.

The dividends on bank shares (American) are now in course of payment; we cannot receive yours, as we do not appear to have a power of attorney from you to authorize it.

We are, sir, your most obedient servants,

London, 27 July, 1807. HENRY HOARE & Co.

It is expected that a war will immediately take place between this country and the United States.

MAT'S ASPDEN, esq., Liverpool.

192.

H. Hoare & Co., London, to Matthias Aspden, Liverpool.

SIR: We wrote to you yesterday, enclosing a five pound bank note, conformably to your desire, and have this day applied at the Alien office to procure the passport, towards enabling you to proceed to America, but without succeeding. They informed us that they could only grant it to you on your appearing in person; and, in the present situation of affairs, it seems advisable that you lose no time in coming up to town on this business.

We are, sir, your most obedient servants,

London, 28 July, 1807. HENRY HOARE & Co.

MAT'S ASPDEN, esq., Liverpool.
To the care of Messrs. Arth'r Heywood & Co.

806.

193.

Matthias Aspden, Liverpool, to President Bank of United States.

LIVERPOOL, *July* 31, 1807.

SIR: I am sorry to take up my pen to inform you of an unpleasant disappointm't to me, in not being at liberty to proceed in the Ganges for Philad'a, on board of which I had taken my passage in the cabbin; and on the 23d inst't paid the capt'n £30, the day the ship haul'd out of dock, deferring it as long as I could, from the daily apprehension of an embargo, in which it appears I have not been mistaken, from its [having] taken place that very day in London, and here two days after; this, however, is not the cause of my disappointm't, but the rigidness of office here, in the Alien departm't, in not thinking the passport given me at Dover on my arrival there from the continent the 16th March, 1803, under a former alien bill, sufficient under the present for granting a license to embark, which I produced there the next day after paying the capt'n, having no suspicion the 24th, and was all I had to do, the office inform'd me at Dover, for that purpose, when ab't to embark again, in which I think they were right, as I knew nothing of any new alien bill that had passed that had made any alteration in the former, or had heard of any, buried alive in London, as it were, and indisposed; and if I had, it does not appear to me, as I landed in England before its passing, (and might not under the conditions of it,) that I was bound to take any notice of it, or the office here either; on this ground I told the capt'n I w'd venture to risk the issue, and what was the penalty, if he on his part w'd venture to take me; which declining, he has paid me back the money I paid him; and am almost sorry since, I had not proposed at the time, indemnifying him on this head, as it is so unjustifyable [a] thing, in being at any rate a mere matter of form; and as I cannot wave the right of egress and ingress, as a large public creditor, and suffering too here merely from being there, and may be in America—if the bank has not done with respect to the receipts of mine, as requested in former letters.

The office here being peremptory, I wrote pr. the ensueing post, the 25th, as they instructed me, to Hen'y Hoare & Co., London, to apply at the Alien office there, for a licence to grant a passport here to embark, and in answer received the follow'g letter.

"We wrote to you yesterday the 27th, incloseing a five pound bank note, conformably to yr. desire, and have this day applied at the Alien office to procure the passport, towards enabling you to proceed to America, but without succeeding. They inform'd us that they could only grant it to you on your appearing in person; and in the present situation of affairs, it seems adviseable that you lose no time in comeing up to town on this business." For the latter, what the poscript adds to their letter of the day before, may be some reason—

"It is expected that a war will immediately take place between this country and the United States."

Alludeing to the account just receiv'd, of the unhappy action off the Chesapeake, between a Brittish man of war and an American frigate.

This advice it seems necessary I should follow; and intend setting out for London as soon as I well can; and would beg to remind the bank again, let me find things as I may in town, it is my intention to embark for some part of the Unit'd States, as soon as I safely and conveniently can—and if the bank has not laid out the growing divid'ds on the stock of mine they are in the receipt, they will take my peculiar situation into due consideration, and lose no time in doeing the same; and the receipts of such further divid'ds in such other stock, as the bank may think best for my interest, untill my further on this head.

I have scarcely time, or I would enclose the two bank shares of the Unit'd States I have with me, advised of in a former letter from hence.

I am sir, your obed't servant,

MATTHIAS ASPDEN.

To the PRESID'T, for the time being, of the Bank of the Unit'd States.

N. B. The price I engaged to give Capt. Earle for my passage in the Ganges was thirty guin's; should the owner not think thirty pound sufficient on arrival.

I shall be glad and hope it will be in my power to contribute to settle, if not so already, this unpleasant, if not unlawfull ship-searching business for seamen, which I think easily may upon being properly and generally understood, to mutual safety. It is a very serious and dangerous thing on either side, to trust power to any party, to charge on their bare word, or on information and not on oath, a friendless and wretched mortal into custody, and perhaps on an order to inst. punish-m't, or with a little more form, to death—without its being in his power perhaps to produce proofs to support the facts he affirms—of his being an alien, or no deserter.

If Great Britain thinks herself bound, as they owe allegiance, to give gener'l protection to those she naturalizes by act of parliament, or the crown grant letters of denization—and this is admitted by the nations of Europe—the matter will stand upon a broad and not on a narrow bottom, and may be readily, amicably settled. As the Unit'd States of America will have a right to expect to stand on the same ground with respect to those she may make citizens of the same. At the same time, the fewer that is made the better, unless where there is compleat evidence on record to shew it. Certificates alone being dangerous and hazardous evidence to trust, to try the right of a person to citizenship or country.

Untill this unhappy dispute is settled, the owners of vessels in the Unit'd States bound to Europe or the West Indias, would do well not to endanger the safety of their vessels by letting more British seaman being ship'd then can be help'd, unless they can bring proofs to shew the were within the United States when the prohibitory act took place, and within the four New England States, when the interdicting bill before this placed them out of protection, and made war on them.

Endorsed—To the Presid't, for the time being, of the Bank of the Unit'd States, in Philadelphia.

194.

Matthias Aspden, London, to President Bank of the United States.

LONDON, *Aug. 15th*, 1807.

SIR: I wrote to you from Liverpool, under date of the 31st ult'o, (correctly it sh'd have been of the day after, mistakeing the day of the m'th,) adviseing the bank of the very unpleasant and unexpected disappointment I had experienced in being hinder'd proceeding in the Ganges for Philadelphia, by which I had taken my passage, and paid the capt'n £30, in part of 30 guin's for the same, if, on arrival, the owner should not think the first sum enough, through an unwarrantable, oppressive, and frivolous pretence in the Alien office in London, "that they could only grant it, (a passport to embark,) on your (or my) appearing in person."

As no doubt, giveing them the number and date of the certif'e given me at Dover, under the former Alien bill, and shewing them the signature to my letter, requesting it, which was test enough of the party in a case like this, ought to have been amply sufficient for the purpose, without the expence of long and fatigueing journeys to town and back, to satisfy curiosity or useless form—if the ship could have waited, and the capt'n not disposed to return my passage money.

When I shall embark now I am uncertain, may be the latter end of the month, or begining of the next; or I may cross over to Calais, and proceed to Lisbon for this purpose, as I have been so harras'd, vex'd and disappointed in going, perhaps oweing to an unceaseing and unfeeling combination. Be this as it may, I have thought it proper, since comeing to town, to lose no time in sending the two bank shares I advised the bank from Liverpool I had with me, and accordingly here enclose you the same, No. 26,607, dated Philadelphia, July 1st, 1797, and issued in the name of Priscilla Bevan, of Highbury Terrace, spinster, with a power of attorney from her to transfer the same into my name, which I request the fav'r of your doing, and to place the certif'te issued in leiw thereof with my other certificates the bank has, in its safekeeping, until my further order on this head; the bank purchasing, with the growing divid'ds on my stock, as before requested, such stock as they may think best for my interest.

I received on Thursday, of Messrs. Cazenove, Battard & Co., and of Baring, Broth. & Co., as my receipt and duplicate will shew, £43 2 11, for a half-year's divid'd, due on bank shares to 1st Jan'y last, which I conclude to be for a ½ y'r on 12, and make no doubt from the sight the bank has had of my particular situation it will so prove.

What will be the consequence of the rash and silly affair between the Leopard and Constellation, off the Chesapeake, at this moment, can only be mere conjecture, there being involved in it questions of high

legal and political importance and the lot of many; at present all is darkness, mystery and suspence. Yet I am sorry to add, from the very serious aspect of it, altogether, it looks to me as if things were very big again with the fate of Cato and of Rome. It is true, war can do no good, but much mutual injury, at least. I would therefore feign hope, notwithstanding, on due enquiry, it may be settled by right and not by might—and peace made lasting by a wiser conduct pursued in future. I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To the PRESIDENT, for the time being, of the bank of the United States.

Endorsed—To the President, for the time being, of the Bank of the United States, Philadelphia. Pr. the Oaccan.

195.

Matthias Aspden, London, to President of the bank of the United States.

LONDON, *February 23d*, 1808.

SIR: I wrote to you from hence, pr. the Occan, as presid't of the bank of the Unit'd States, on the 15th Aug'st last, encloseing you two bank shares to transfer into my name, to wit, No. 26,607, dat'd Philad'a, July 1st, 1797, issued in the name of Priscilla Bevan, of Highbury Terrace, spinster, to which refer, as I hope my lett'r has been received—although I am since with't hearing from the bank as formerly, adviseing me thereof. I proposed two months agoe, or more, sending the bank five shares more for this purpose, had my brok'r been able to get them, as before, guaranteeing the transfer or title to me; this, he told me, he c'ld not do, from a New York regulation that had taken place since the purchase of my last, of guaranteeing paper only, and not title, as if the first did not charge, if false or forged, and guarantee itself; and forced me, as the money had been laying long enough at a bankers at 3½d a day pr. c't., at least to become an adventurer, as far as a qual*i*fication to vote, in the commercial comp'y tradeing to the South sea, comonly call'd the South Sea comp'y; wherein (from being here under the alien bill, from leaveing America, now the Unit'd States, after the prohibit'y act took place) I have gone in under the description of "the right hon'ble Matthias Aspden, of Philad'a, North America," being early known there as hon'ble on record; I may say right, and proposeing to return there again; and as I have ventur'd to tell them here—as the man does, and always has supported the description, and enough, not that he had much hope, he was sorry to say that the descript'n would ever support the man; and under this descript'n I propose to send out my next Am'n stock, which may be soon, as I have lately mention'd to several Am'n houses, likely to have stock sent them in remit'ce, and brok'rs here, that I could make it convenient to buy five or six bank

shares, or 2,500 dls. Louissiana, if they had any for sale with title or transfer guaranteed as formerly; and if none should offer shortly, will force me again into some commercial fund here, as the puting a part of the bal/ance in my banker's hands as the arise from time to time to some am't, and attending to my pecuniary concerns, impose rather a constant care upon my mind, and cannot be neglected.

The bank in the purchase of stock, order'd for my acc't out of the growing produce of my dividends, I can properly conclude will describe me in England, following in this the descript'n of me in my last stock sent out, and will, of course, carry my divid's on the same they receive, under the power they are in possession of for that purpose, to my acc't as it stands open with me of England, which will make it conclusively clear the stock belongs to me, and avoid all appearance of confusion; and this the bank may do on any stock I may at this time, or hereafter, send from hence, described as mention'd, of Philad'a.; and as I shall further take care to word the power, and as my signature alone will sufficiently test the same for this purpose, and as I am known from this, will any inconven'ce or doubt arise from appearing in any list of holders of shares or stock of two places, as Matthias Aspden, of such Gr't Britain, esq're, and the right hon'ble Matthias Aspden, of Philadelphia, North America.

I feel this matter awkward, and am urged to it, at this conjuncture, from several considerations, and my very peculiar situation; yet I trust, as the alien public creditor is as much a benefactor to the State as the subjects of the same, that neither country will violate the public faith pledged to them, who stand in that relation to either; and from the confidence placed, and under this further consideration of the case, I shall stand as I do, it being a question with me as a freeman of New Castle, Bristol, Drogheda, and I am inclin'd to think of other places in England and Ireland; whether I can be that, to the full extent of the meaning of the word, with respect to Gr't Britain, if this should be consider'd matter for exception; for, as the right to the crown descends to a foreigner, so, I apprehend, do the freedom of cities here, and the same with respect to the city of Philad'a; if the freeman had left the same before the revolution took place, the right being still in him, and no way essentially impair'd or forfeited through the revolution thereby.

I here enclose the bank Wm. Dodd's affidavit, clark to H'y Hoare & Co., bank'rs, of this city, that I paid into their bank, on the 10th Aug'st, 1807, a forged bank note of one pound, No. 8452, dat'd 6th Oct r, 1806, which note I do here assure the bank I received of Capt'n Earl, of the Ganges, at Liverpool, the last or latt'r end of July last, to whom I had paid it ab't ten days before, by a cheque on Arth'r Heywood & Co., of the said town, for £30, in part of 30 guin's for my passage in the said ship for Philad'a, and being hinder'd going by the Alien office here, this sum of £30 that I had paid him was p'd me back again in bank notes, £19 of which notes, with a ten pound note enclosed me by H'y Hoare & Co., of the 30th May, making the sum of £29, I paid into their bank, as mention'd, on the 10th Aug'st last,

haveing taken out of the sum of £30, paid me back by Capt'n Earl, the am't of this ten pound note in small notes, and one pound more for change. I have for further satisfact'n enclosed a note from the investigator's office, Bank of England, shewing that this was bro't in there, where it lays on the 18 Aug'st, 1807. The bank, I request, will call upon Capt'n Earle's owner with this lett'r, and the authorities enclos'd, and ask if he is willing to pay it, and if not, to take his direction to Capt'n Earl, and, if not in port when expected, to shew the same to him, whom, I can have no doubt, will pay the money at par, or exch'e going, which the bank will receive and pass to the cred't of my acc't, as he must be clear of whom he got the sum he paid me, and can eith'r write himself or get it back through his owner, on the references here given. I paid for this affidavit one shill'g sterl'g, which, I presume, was [the] cost of swear'g to it before the lord mayor; and with't the authority of this affidavit I told Messrs. Hoares they could not charge it to my account, nor could I give them cred't for it, otherwise it would be opening a door to charges of this kind at will and pleasure.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To the PRESIDENT, for the time being,
of the Bank of the Unit'd States, Philadelphia.

P. S.—I have lately sent to the commis'rs of the income duty here another remonstrance and representat'n, stateing the addition'l and singular hardship and injustice there is in takeing from my divid's at the bank and India house the sums they do, from the hindrance lately by the Alien office to my return'g to Philadelphia; and again, that this takeing is contrary to the terms of the loan, and on the same account contravenes the treaty of amity and commerce with the Unit'd States of America, requesting relief.

M. A.

From present appearances, and the difficulties in the way of buying American stock, under the objections it is offered at this time, and limitted to expense with throwing money away, as well as to distance with't a licence, for near ten years past, and from health. I propose writeing shortly to Messrs. Perregeau & Co. at Paris, as I have wrote to the bank, to lay out the growing divid'ds on my Tiers Consols, that they are in the receipt of, in furth'r stock, until furth'r advice, and enclose me copies of the inscript'ns, as I soon now shall have two half y'rs divid'd in their hands, if not three; if the buyer, after 22 June and 22 Decemb'r, is entitled to the divid'd for that half year, my stock being bo't pr. acc't on the 29th June, 1802, and paid for the next day by a draft on H'y Hoare & Co. at 30 days date. Divid. on the Tiers Consols are paid 22d March and 22d Sept'r.

I am still with't any remit'ce of the ball'ce of £47 10 1 due to me for divid'ds to 1st Oct'r, 1799.

Is there any inst'ce in Pennsylvania of a grand jury finding a bill under an "ex post facto" law, or of a ship being condemned?

Endorsed—To the President, for the time being, of the Bank of the United States, in Philadelphia. Pr. the

196.

Matt. Wents to Matthias Aspden, London.

OFFICE FOR TAXES, 10*th March*, 1808.

SIR: In answer to your letter of the 4th ultim., claiming again an exemption from the duty on your dividends in the British funds, as being a native of the American States, I am to repeat the determination of the special commissioners on the consideration of your first claim, that being resident in Great Britain, and having been so for many years past, your case does not come within the provision of the act made in behalf of foreigners, and your claim cannot be allowed.

I am, sir, your most obed't servant,

MATT. WENTS.

Mr. M. ASPDEN, Orange street.

197.

Memorandum of Matthias Aspden.

Wrote pr. the post to the governor and direct'rs of the Bank of England, May 28th, 1808, and enclosed them my draft in their fav'r, for my acc't for £187 7 3, on the comis'rs of the income duty at Somerset house, the am't of the duty or levy taken from my divid'ds at the bank and India house, and requested, haveing found I came under the Alien bill, (and being in England accidentally, from the shamefull terms of the treaty of peace with America, and for some years past from an indiffer't state of health from different attacks; and lastly, from being hinder'd last summer, and unwarrantably, by the Alien office, after having taken and paid £30 in part of 30 guin's for my passage on board the Ganges, at Liverpool, for Philada., under a pasport given me at Dover, Mar'h , 1803,) that they would present the same, and on the receipt of the money, or a certif'te of exempt'n, they would pass it to the cred't of my acc't, haveing an acc't open with the bank.

198.

Draft on the special commissioners of the income duty.

Pay to the governor and directors of the Bank of England, for my account, twenty-four pound four shilling, am't of the sum that they have taken at the bank from the half year's divid'd on my 4 pr. ct. annuit's, due the 10th inst., unauthorized by me, from my being under

the Alien bill; haveing on that account no vote in parliament, and without my consent, a bona fide creditor, directly or indirectly.

MATTHIAS ASPDEN.

Orange str't, 5 Red Lion square, Octob'r 17th, 1808.

To the SPECIAL COMMIS'RS of the income duty, London.

£24 4

Endorsed—If the alien creditor abroad is intitled, is not the alien creditor in England equally intitled, or more so, especially if he is in England merely as a creditor, and per force?

Returned for non-paym't, December 19th, 1809.

199.

Matthias Aspden, London, to President Bank United States.

LONDON, *October* 31, 1808.

SIR: A ship being up, or perhaps down, for Philad'a, and may be going there after going to ports and ports in her way, nevertheless, let all this be as it may, as she has been long up and going from time to time, I do not like to neglect hazarding letter by her, that the remembrance of me may not be forgot, nor the attention due to my interests under your care be neglected. I wrote the bank, on the 23d Feb'y last, enclosed William Dodd's affidav't of a forged one pound bank note that Capt'n Earle had paid me among other notes, in repaying me back my passage money for Philad'a that I had paid him a few days before, on acc't of being hindered going—that I had paid in among £29 of the same, at the bank of Henry Hoare & Co., of this city; respecting which, as I have no advice, nor any late letters, I can only hope the bank has done the needfull.

I propos'd embarking, in May last, from Liverpool for some port of the United States, and accordingly wrote to an old correspondent there, before the Am'n war, still alive, for some informat'n as the vessell's going; and, had his answer reached me as early as it might, little as it was encourageing, I believe I should have ventured to have applied for a pas*'t, and gone down and embark'd, if not hinder'd again. Soon after I went down * * here, to look at two or three vessels going to Canada, and went aboard a d * * and saw the cap'n, and asking him when he sail'd, and what accomodat'n he h * * me his accomodat'ns were all engaged. In this I am almost certain he answered by a s * * his ear that followed me, and which I am much inclin'd to think, or other spirits eq * * wicked has been the cause, both when I have wrote and when I have made personal application, of disappointing me going; and if this sh'd be, or has been, thro' any person or persons being in a league and conspiracy again me with such spirits, do I know any practices more cruel, wicked, vexa-

tious, and dangerous, or any thing that more loudly calls for heavier damages again the wicked person or persons in league with such evil spirits and watchers, if not in justice to the public, to the punishm't due to the crime of sorcery. For my own part, I had no idea of any thing of this kind untill the winter of 1798, in Ormond st., when for the first time in my life I slept with a light in my chamber, and forced to the resource of it all the winter thro'. Going to Richmond in the summer, I had there frequent and repeated proofs of there being spirits and damons, from hearing and seeing, if the latter are not also spirits. And now, and for several years past, nothing more clear, notorious, and common; for I seldom go out to a coffee house that I am not dog'd or bitched all the way; and while there, to my great annoyance and others present, and back, by voices out of the air that I mostly know, and to the great reproach and scandal of the police of the city, or bench of bishops, at whichever door the business of laying evil spirits may lay. As early as the age of 4 or 5, I was taught to believe there was no such things as spirits, and was not afraid to go any where alone, or to sleep in a strange house in a chamber alone, with a window looking into a church yard; and which the commands of the Lord in the Bible to the Jews, to destroy the witches and wizards out of the land, had tended to strengthen and confirm. And this by one that was a spirit or damon itself or herself, if I am not much mistaken, and which accident led me to discover, in looking for lodgings a few years agoe, at a lodging house in my present neighbourhood, where I met the original, and was struck with it; who, very soon after I came into the room, went out with a person like a clergyman with her; she was something bigger than the counterfeit; when she returned home in the year 1762, sent the counterfeit abroad: excellent hands for a motherless child to fall into. But as I am alive and tolerably well, except some remains of the gout in my feet, I may say from this, and many other things, that I am truly sensible that there is a Providence over all. And that there is nothing now (cant out of the question) that will separate me from the love of God, and what many others, I believe, would say duly and properly * * ucted, or would be at the pains to instruct themselves. From the calamities * * ve fallen my lot to experience, I think it not amiss here to recommend, thro' * * f parents and guardians, never to conceal from children or wards their age * * p them totally in ignorance of the invisible world, or to use any endeavours * * e them altogether unbelievers in it; for, whatever may be the consequences, and they may be many and fatal, the sin will lay at their door. Ignorance of the first has been the cause with me of many sore grievances, and some heavy disappointm'nts, and particularly in two or three things, to have been the cause that bro't my life into emin't danger.

At the age of four, an old aunt would say I was near ten, which I believ'd, and affronting by me tell them that ill weeds grew apace. Being a tall child, and when but 14 I was 21, which my first letter-book shews. From this you will conceive what was my ideas, what

behaviour I must assume, and with what comp'y, in my simplicity, I must mix; particularly, as my father died in Aug't, 1765, when I was but a few months turn'd of eight, leaving me a good estate, and an execut'r to his will, (probably haveing no thought at the time of makeing, not long before, a speedy dissolution,) or, more properly, his heir-at-law. An attention to which, that was wanted, drew me back from England in 1767, where I went the year before, and much of it was given to it, which it much requir'd, and did of persons much older. As I am not without some reason for thinking I never got all that was my right of it, or, perhaps, near. And shows how much the country was agrieved thro' the want of a court of chancery, let the appointment of the chancellor be in whom it might; for truly hard fated must it have been if it could not have produced one. The knowledge I have latterly come to of my age, and this not exactly, and of there being damons and spirits, has rather occasioned some hard thoughts of a number of relatives near me; of many who shared of my friendship and partook of my civilities; and of others again who were experiencing my fav'rs, that they should be keeping me in the dark, and snigering in their sleeves at my ignorance and simplicity in both respects; when a knowledge of the first, clearly, would have been of infinite service as well as satisfaction to me, and some little of the latter had its uses, as I might be safely trusted, if any are to be derived from the use of damons or spirits. I have seen by accid't the circular lett'r of the bank to the holders of Am'n stock in Europe; approve of it, except the bank, as it is answerable, not proposeing to receive into its possession from the loan offices the am't of the div'ds due to the parties that *has* empower'd it to receive the same for them. The rates that I have seen quoted of exch'e give gr't support to it, and will do, while these high rates continue. Untill a fall, or where specially order'd otherwise, if good bills or doll'rs are to be had, the measure fully confirms to me that the orders I gave to the bank to lay out the growing divid'ds on my stock, as they became due from time to time, in the purchase of other stock, were highly proper and expedient, not only on this acc't, but for the other reasons I had for it, and which I trust the bank has duly done, and will do, untill my further advice.

My intention to return to America continues the same, as soon as I can avail myself of a safe opportunity.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

P. S. Not finding this ship in the dock, nor haveing seen the capt'n, has prevent * sending the bank to hand to the Presid't of Congress two pamphlets lately publish * the Light and Heat comp'y here ab't to be incorporated under a chart'r; shares £50 each; num. two million; proffits proposed, millions upon millions. Most probably they have got to New York, and may have reached the hands of some chemist with you. The objection, I understand, to Virginia coal for family use, is there being too small; to coke them according to these

pamphlets, would make them a cheap, wholesome, and excellent fuel. This I found dearer in Philada. than in London. As fire is one of the first comforts, it must now be one of the first objects of legislative attention.

I flatter myself all parties in Europe are getting tired of the war, and that an end to thumping heads again stone walls is drawing nigh, and of course to all damon sway and delight. If it is not, I am apprehensive not much further trials of strength will be made in Spain. You will judge from this I may be a buyer of Am'n stock; in this you will judge right; for I have been wait'g the offer of some for some time.

Endorsed—To the President, for the time being, of the Bank of the United States. Philadelphia. Pr. the Volunteer.

200.

H. Hoare & Co. to Matthias Aspen; with memorandum of Matthias Aspden.

LONDON, 16 *Nov.*, 1808.

Bought in the name of Matthias Aspden, esq're,			
£300 India stock, at 184½ per cent. - - - -	553	10	0
Brok'ge, ⅛ per cent. - -		7	6
	553	17	6

W. WILLOUGHBY, *Br.*

SIR: The cost of the above will be charged to your account on Tuesday next.

We are, sir, your most obed. servants,

HENRY HOARE & CO.

MATTHIAS ASPDEN, esq.

November 25, 1808. Examined this day the books at the India house, and found the above stock transferr'd correctly into my name, (by William Williams,) as per acc't opened with me, for my first stock bo't and accepted by me; and my India stock bo't subsequent, to wit, Matthias Aspden, of Richmond Surry, esquire. M. A.

On acc't of my intending to go to America, the divid'ds on my India stock, since Jan'ry 10, 1804, has been received by Hen'y Hoare & Co. under a power of attorn'y, and would been all regularly accept'd at the first, but for cancelling the power.

Endorsed—Matthias Aspden, esq.

201.

H. Hoare & Co. to Matthias Aspden, Bath.

Received of Matt's Aspden, esq., a bill for sixteen pounds, to account for on demand.

For Henry, Hy. Hugh, Charles, William Henry, and W'y Merrik Hoare.

H. & M'K HOARE.

London, 21 January, 1808.

£16 in comm'rs of property tax.

Your directions concerning the above mentioned bill, shall be attended to.

Endorsed—To Matthias Aspden, esq., Bath.

202.

H. Hoare & Co. to Matthias Aspden, Bath.

SIR: We beg to acquaint you that we have presented the bill for £16 to the commissioners of the property tax, and that they will not accept it. We shall keep the bill subject to your further orders.

We are, sir, your most obedient servants.

HENRY HOARE & CO.

London, 26 January, 1809.

£16.

MATT'S ASPDEN, esq'r.

Endorsed—To Matthias Aspden, esq., Bath.

203.

Matt. Wents to Matthias Aspden, London.

OFFICE FOR TAXES, 17*th March*, 1809.

SIR: I have laid before the commissioners for the special purposes of the property act, your letter of the 2d instant, referring to your draft on them, offerred for their re-payment to your bankers of the amount of property tax deducted from the dividends of your stock, in respect of which you conceive yourself exempted, as coming under the Alien bill, and for the causes set forth in former applications.

I am directed to acquaint you, that as you have been constantly resident in this country, your claim to exemption as a foreigner cannot be allowed. This determination has been twice before intimated to you, and I am to observe that the commissioners cannot pay attention to any further claim you may make on the same grounds.

I am, sir, your humble servant,

MATT. WENTS.

Mr. MATTHIAS ASPDEN, 5 Orange street, Red Lion square.

Endorsed—On H. M. S., Mr. Matthias Aspden, 5 Orange street, Red Lion square.

204.

H. Hoare & Co. to Matthias Aspden.

SIR: In answer to the favor of your letter, you may sign our bill book, (in discharge of the two bills returned yesterday unpaid,) at any time that is convenient to yourself.

We are, sir, your most obedient servants,

HENRY HOARE & CO.

London, 17th Nov'r, 1809.

To MATTHIAS ASPDEN, esq.

205.

M. Aspden to Commissioners of Taxes.

GENTLEMEN: I am fav'd with y'r note of Saturday, and request to acquaint you, I think very differently from you with respect to your powers, as a court of appeal, or as jurors sitting to give relief to parties, oppress'd and wrong'd, who appeal or apply for that purpose. Nor do I think there is a pannel in England duly qualified to discharge the office of special jure, and unexceptionable, that would not support you in giveing relief in cases like mine, or it would be truly a woe-begone country indeed, and all the rights and proper. of Englishman; to do otherwise would be to support an absolute "barbarism," in a gross "distinction made without a difference" between alien abr'd and alien in England. I will repeat here again, that I cannot but think myself fully intitled to relief, on every ground of justice, equity and policy, and am willing to bear you harmless, if the question should come to issue in any court of law or equity, and if I am entitled in justice and equity, surely I am entitled to it in law; or otherwise, what is law? recollect how I am, and from the preface to my statem't, how I have been treated, and let me hope, as it merits, you will take it again in further consideration.

If I had not been inform'd by the clark I first saw, that relief to aliens had been given generally, and understood the same from the clark I spoke with when I call'd the second time, I should not have drawn up any statement, nor given you the trouble I have.

I am, gent'n.

P. S. Your note is directed to Mr. Matthias Aspden; do me the fav'r to acquaint your clark that I have no acc't open at either the bank, India, or South Sea house, as under the description of "Mr. Matthias Aspden, and that this implies it to be for another person, and therefoe not an answer to my complaint, which respect money being taken from my div'ds at those places without my consent, described Matth's Aspden, esquire, of Gr't Britain, &c.; my signature to the acceptances shewing the holder of it, and may lead to a mistake, as aliens cannot safely take a house, unless importers.

For Henry, Hy. Hugh, Charles, William Henry, and W'y Merrik Hoare.

H. & M'K HOARE.

London, 21 January, 1808.

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We are, sir, your most obedient servants.

HENRY HOARE & CO.

London, 26 January, 1809.

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I am directed to acquaint you, that as you have been constantly resident in this country, your claim to exemption as a foreigner cannot be allowed. This determination has been twice before intimated to you, and I am to observe that the commissioners cannot pay attention to any further claim you may make on the same grounds.

I am, sir, your humble servant,

MATT. WENTS.

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We are, sir, your most obedient servants,

HENRY HOARE & CO.

London, 17th Nov'r, 1809.

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M. Aspden to Commissioners of Taxes.

GENTLEMEN: I am fav'd with y'r note of Saturday, and request to acquaint you, I think very differently from you with respect to your powers, as a court of appeal, or as jurors sitting to give relief to parties, oppress'd and wrong'd, who appeal or apply for that purpose. Nor do I think there is a pannel in England duly qualified to discharge the office of special jure, and unexceptionable, that would not support you in giveing relief in cases like mine, or it would be truly a woe-begone country indeed, and all the rights and proper. of Englishman; to do otherwise would be to support an absolute "barbarism," in a gross "distinction made without a difference" between alien abr'd and alien in England. I will repeat here again, that I cannot but think myself fully intitled to relief, on every ground of justice, equity and policy, and am willing to bear you harmless, if the question should come to issue in any court of law or equity, and if I am entitled in justice and equity, surely I am entitled to it in law; or otherwise, what is law? recollect how I am, and from the preface to my statem't, how I have been treated, and let me hope, as it merits, you will take it again in further consideration.

If I had not been inform'd by the clark I first saw, that relief to aliens had been given generally, and understood the same from the clark I spoke with when I call'd the second time, I should not have drawn up any statement, nor given you the trouble I have.

I am, gent'n.

P. S. Your note is directed to Mr. Matthias Aspden; do me the fav'r to acquaint your clark that I have no acc't open at either the bank, India, or South Sea house, as under the description of "Mr. Matthias Aspden, and that this implies it to be for another person, and therefoe not an answer to my complaint, which respect money being taken from my div'ds at those places without my consent, described Matth's Aspden, esquire, of Gr't Britain, &c.; my signature to the acceptances shewing the holder of it, and may lead to a mistake, as aliens cannot safely take a house, unless importers.

206.

John S. Taylor to Matthias Aspden, London.

TAX OFFICE, *Bedford st.*, 18*th Nov'r*, '09.

SIR: In answer to your communications respecting the property tax, I am directed to acquaint you that it is not in the power of the comm'rs to afford you any relief.

I am, sir, y'r obed't serv.,

JOHN S. TAYLOR.

Endorsed—Mr. Matthias Aspden, 5 Orange street, Red Lion sq're.

207.

Check—Matthias Aspden on S. Girard's Bank.

PHILAD'A, *Jan'y* 18, 1816.

Stephen Girard, banker, South Third street, pay to Mr. William Renshaw, or bearer, sixty-four dollars 15 cents, and place the same to my acc't.

MATTHIAS ASPDEN.

64 dollars 15 cents.

208.

Check—Matthias Aspden on S. Girard's Bank.

PHILAD'A, *Jan'y* 19*th*, 1816.

Stephen Girard, banker, South Third street, pay to Messrs. Willing & White, or bearer, four thousand two hundred and seventy dollars 65 cents, and place the same to my acc't.

MATTHIAS ASPDEN.

4,270 dollars 65 cents.

Endorsed—Please to leave the two certif'ts issued for this stock in the care of Mr. Stephen Girard, bank'r, of this city, delivering the same to Mr. Simpson, cashier, his bank.

209.

Check—Matthias Aspden on S. Girard's Bank.

WASHINGTON, *Feb. 2d*, 1816.

Pay to Mr. Richard Smith, or order, on demand, seven hundred and seventy-three dollars, and place the same to my acc't.

MATTHIAS ASPDEN.

To Mr. Stephen Girard, banker, Philadelphia.

For 773 doll's.

Endorsed—Pay to S. & J. Nevins & Co. only. R'd Smith. S. & J. Nevins & Co.

210.

Check—Matthias Aspden on S. Girard's Bank.

16*th April*, 1816.

Stephen Girard, banker, South Third street, pay to dr'ft on Charleston two hundred dollars, and charge to

MATT'S ASPDEN.

200 dollars.

211.

Check—Matthias Aspden on S. Girard's Bank.

18*th May*, 1816.

Stephen Girard, banker, South Third street, pay to G. Taylor, jr., for stock, or bearer, eleven thousand dollars, and charge to

MATT'S ASPDEN.

11,000 dollars.

212.

Check—Matthias Aspden on S. Girard's Bank.

31 *May*, 1816.

Stephen Girard, banker, South Third street, pay to power of att'y and postage, or bearer, two dollars 87 cents, and charge to

MATT'S ASPDEN.

Two dollars 87 cents.

213.

Check—Matthias Aspden on S. Girard's Bank.

July 1, 1815.

Stephen Girard, banker, South Third street, pay to myself or bearer ten dollar — cents.

MATTHIAS ASPDEN.

10 dollars — cents.

214.

Check—Matthias Aspden on S. Girard's Bank.

July the 11*th*, 1816.

Stephen Girard, banker, South Third street, pay to Messrs. Willing & White, or bearer, five thousand one hundred and thirty-six dollars 38 cents.

MATTHIAS ASPDEN.

5,136 dollars 38 cents.

206.

John S. Taylor to Matthias Aspden, London.

TAX OFFICE, *Bedford st.*, 18*th Nov'r*, '09.

SIR: In answer to your communications respecting the property tax, I am directed to acquaint you that it is not in the power of the comm'rs to afford you any relief.

I am, sir, y'r obed't serv.,

JOHN S. TAYLOR.

Endorsed—Mr. Matthias Aspden, 5 Orange street, Red Lion sq're.

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MATTHIAS ASPDEN.

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Check—Matthias Aspden on S. Girard's Bank.

WASHINGTON, *Feb. 2d*, 1816.

Pay to Mr. Richard Smith, or order, on demand, seven hundred and seventy-three dollars, and place the same to my acc't.

MATTHIAS ASPDEN.

To Mr. Stephen Girard, banker, Philadelphia.

For 773 doll's.

Endorsed—Pay to S. & J. Nevins & Co. only. R'd Smith. S. & J. Nevins & Co.

210.

Check—Matthias Aspden on S. Girard's Bank.

16*th April*, 1816.

Stephen Girard, banker, South Third street, pay to dr'ft on Charleston two hundred dollars, and charge to

MATT'S ASPDEN.

200 dollars.

211.

Check—Matthias Aspden on S. Girard's Bank.

18*th May*, 1816.

Stephen Girard, banker, South Third street, pay to G. Taylor, jr., for stock, or bearer, eleven thousand dollars, and charge to

MATT'S ASPDEN.

11,000 dollars.

212.

Check—Matthias Aspden on S. Girard's Bank.

31 *May*, 1816.

Stephen Girard, banker, South Third street, pay to power of att'y and postage, or bearer, two dollars 87 cents, and charge to

MATT'S ASPDEN.

Two dollars 87 cents.

213.

Check—Matthias Aspden on S. Girard's Bank.

July 1, 1815.

Stephen Girard, banker, South Third street, pay to myself or bearer ten dollar — cents.

MATTHIAS ASPDEN.

10 dollars — cents.

214.

Check—Matthias Aspden on S. Girard's Bank.

July the 11*th*, 1816.

Stephen Girard, banker, South Third street, pay to Messrs. Willing & White, or bearer, five thousand one hundred and thirty-six dollars 38 cents.

MATTHIAS ASPDEN.

5,136 dollars 38 cents.

215.

Check—Matthias Aspden on S. Girard's Bank.

July 11*th*, 1816.

Stephen Girard, banker, South Third street, pay to Messrs. Willing & White, or bearer, eighty-five doll'rs, *dollars*, 99 cents.

MATTHIAS ASPDEN.

85 dollars 99 cents.

216.

Check—Matthias Aspden on S. Girard's Bank.

August 15, 1816.

Stephen Girard, banker, South Third street, pay to the subscrib'r, Matthias Aspden, or bearer, one hundred and fifty-nine dollars — cents, and place same to his acc't.

MATTHIAS ASPDEN.

159 dollars — cents.

217.

Check—Matthias Aspden on S. Girard's Bank.

August 15, 1816.

Stephen Girard, banker, South Third street, pay to Mr. George Yohe, or bearer, seventy-four dollars 77 cents. Dollars, cents.

MATTHIAS ASPDEN.

73 dollars 77 cents.

218.

Check—Matthias Aspden on S. Girard's Bank.

Decemb'r 27, 1816.

Stephen Girard, banker, South Third street, pay to Mr. George Yohe, or bearer, ninety-two dollars and 22 cents.

MATTHIAS ASPDEN.

92 dollars 22 cents.

M. A.

219.

Matthias Aspden, London, to the President, &c., of the Bank of the United States.

LONDON, *January* 31, 1818.

GENTLEMEN: In the confidence I placed in the assurance of the

President when I gave directions for filling up the power of attorn'y for the presid't of the bank for the time being, to receive the div'ds on bank and other public stock, and to pass the same to the cred't of my acc't, that the bank would do the same; and also execute the order for 1000 dol's, 7 pr. ct. for my acc't, I left with the bank, with the above power of attorn'y, and any future order I might give for the purchase of stock, should I not otherwise want the money; on my leaving Phil-ad'a in July last, for Canada, prevented me, from the shortness of the time allowed, after taking my passage at Quebec in the Warre, for London, from my still weak state of body, and other induceing reasons for it, from writing to you from thence; but as I had a special occasion for writing to Mr. Stephen Girard, a member of our comp'y, and in the direction, it weigh'd with me again, that he mention[ed] it of course, and would be all for the present that was needfull; and I will hope he did, as I have his lett'r of the 29 Aug't, adviseing me of my letter from Quebec, of the 1st of that month, having got duly to hand.

My peculiar situation arising from one vexatious cause or another since the commencem't of the first Am'n war, added to my unsettled state at this moment, prevents me from haveing any other use at present of "capitall," then laying it out in the purchase of national stock, or in shares or stock of public companies.

In consequence of this state of things with me, and haveing had a considerable ball'ce laying dead for some time, I have lately bo't, from the high price of British stock and Am'n 3 pr. ct., 40,000 Liv'rs Tiers Consols, French stock, and a few Actions in the National Bank of France, at 1,475, and some India stock; but as this is a stock I do not much admire from the too frequent ups and downs of it, I may be induced to sell it again; and with it and other moneys here increase my int'st in the National Bank of France, from the good "faith" the nation has kept with its public creditors amidst all its troubles.

I will now advert to my Am'n stock, and for the reasons that have weighed with me in the purchase of the stock above, I have to request you will lay out in April next the ball'ce of my acc't, within fifty dol-l'rs, in the purchase of Am'n 3 pr. ct. stock, in my name and for my acc't, adviseing me of the cost, and of the date and numb'r of the certificates, and also of the 7 pr. ct. bo't for me, and hold the same in your safekeeping untill my further advice on this head.

As a matter generally interest'g, it may not be amiss to mention here, that I have had my attention much engaged since my return in endeavour'g to get the tax "taken" from my div'ds while abroad in America return'd to me; according to the lett'r of the "clause" in the income act, which exempts aliens the tax, if they are abroad; and "takes" it if residents in England—a despotism that is an insult to common sense, and a perfect absurdity; but the commiss'rs have chang'd this untenable ground that they have all along used as a pretence for not returning it to me; for no court of law or equity could support the contradiction; and now, from a late application thro'

Messrs. Hoare's, bankers, who were empower'd to receive the div'ds on my India and South Sea stock, have made a "false return" to them, writing them word they cannot return the tax from my being, as they are pleased to say, a "British subject," notwithstanding I was in the "out-lawed" provinces after date, say Jan'y 1st, and March 25, 1775, as both fully shew'd to them and known to the office; and therefore, as is seen here, and by my own and the books of others with you, clearly appears to me to be a "false return," and such I think I should find it if I ventur'd to buy a "freehold," or a ship or any part of one; and also very ensnar'g to many that might not be sufficiently on their guard, as they refer me to no case similar to mine, *were* it has been so "ruled and adjudged," and not to be trusted to in the face of evidence. But my claim altogether is for upwards of £1,600 sterl'g, exclusive of my claim on the crown, now long in chancery, of £45,055 15 1 sterl'g, for losses incurr'd under the pains and penaltys of the prohib'y act, in sending my vessels agreeable thereto, and sacrifice'g of a valuable trade, as it required; and at last, from its savage operation, to the rooting of me out of the land, a merchant and a "minor;" and is the only claim strictly national known to me; and from the view in it, as it was, to affect the weak and defenceless provinces at the time; to nationally interest the States that "right" should be done me; and the more especially so from the hope held out here, from the counteracting treaty bill bro't in to enquire into the losses of Am'n sufferers for doing "justice."

By my cheque book with Messrs. Hen'y Hoare & Co., bank'rs, I see my draft for £200 sterl'g in fav. of the presid. was duly paid the 14 Oct'r last; the same w'd been the case, of any I should have drawn before, from the moment of my arrival; but the shyness in applying, appear'd to me singular and unaccount'ble, unless from the high price of exch'e.

By the Presidt's speech, which is flattering, (but not well supported by Lloyd's list, from the entries of Am'n vessels to the South,) I see a third, if not one half of the Louisiana debt, is to be paid on the 21st Oct'r next, and the other half on the 21st of Oct'r, 1819; with respect to the sum comeing to me of this debt, if not likely to be in Philad'a to receive the paym't of it myself at that time, and to apply it as it may suit, I will take care to write you fully touch'g the same in good time.

Inclosed is a copy of the note I added on the back of the power I sent for receiving my div'ds on my actions in the Bank of France, for the reasons express'd at the head, which you will please to file, with my lett'rs and cheques, for governm't, &c.

I am, gentlem'n, your obed't servant,

MATTHIAS ASPDEN.

Am'n 3 pr. ct. ab't 72, British 78
6 pr. ct. 106
7 pr. ct 110

French Tiers Consols, 65.50; Actions 1,550, 46; Liv'rs pr. action div'd, exch'g on Paris, 24.20, pr. one pound sterl'g.

Please to direct to me to the care of Messrs. Henry Hoare & Co., bank'rs, London. I have not got strong, but hope I am on the list of convalescents.

Endorsed—To the President, for the time being, of the Bank of the Unit'd States, in Philadelphia, North America.

220.

Memoir of himself by Matthias Aspden, addressed, apparently, to Messrs. Lafitte.

(Note.)

Mr. Aspden, the holder of the within mention'd actions, that Mr. Lafitte is empowered to receive the divi'ds on, thinks it proper to add the follow'g for general information; be the law call'd the "Droit Debane" in force or not, with respect to a subject of any State.

That he was born within the limits of the Unit'd States of America, Philad'a or neighborhood, and an inhabitant of Philadelphia until the middle of Septem'r, 1776, more than seven months after the prohibt'y act took place, which outlaw'd the provinces, which was the first Jan'y, 1776, and which at length rooted him out of the land, a "minor," from the obedience he had render'd to it, in sending his vessels to England conformably thereto, under the "pains and penalties" thereof, with the pressure of other concerns ariseing from the same cause, to attend to the same, no person being named in the act, for this needfull office for him, nor was any body bound; and as this could not be "required" under the "penalty" merely to punish, but for a temporary service of great national importance, as the thing was grevious, it of course entitles him to due amends for the losses and sufferings incurr'd thereby.

During the "war," and while absent upon duty, and "qui tam," he may say with respect to both countries, his real estate in possession in Pennsylva. was seized and sold under a "false and vicious" attaind'r, as has been proved from the "time" alone of his leaveing the country during the interregnum. Being innocent also of the offences declared to be treason after he had left the country, upon a governm't being form'd.

This attainder and various other causes, has made him to make Engla'd his place of residence for now more than forty-one years, except at intervals, that he has been to the Unit'd States, and over upon the continent. In 1798, on the passing the first alien bill, he gave an account of himself (as a case) being ab't to embark for America, when he found he came under the same, from being in the "outlaw'd provinces after date; and had a passport as it required to embark as an Am'n citizen in the ship Thomas, at Bristol, for Charleston; which ship put into Cork, where he left her, not thinking her "sea-worthy,"

as she leak'd; and return'd to England, landing at Liverpool, where a licence was sent to him to live in London and neighbourhood, limiting him to place and distance, to which he conform'd.

Embark'd for France under the Alien bill in 1802, return'd in 1803, under the Alien bill of that year. Embark'd with a passport given him under this bill in the packet for New York in Sept'r, 1815. On his return by the way of Canada, embarking at Quebec, he landed at Gravesend on Sept. 6, last, under the present Alien bill, as the certifi'te given him at the Alien office there shews—and also the foreigner.

The above, if of no other use, will shew how he is, and has been circumstanced, and who he is. M. A.

Decem'r, 1818.

In the prohib'ty act, nor in the treaty of peace that followed, is there an exception made in any case, or in fav'r of any person or persons—man, woman, or child—there after "date," within the limits of the outlaw'd provinces.

221.

Matthias Aspden, London, to Langdon Cheves, president of the Bank United States.

London, *May* 7, 1819.

Sir: I am glad to avail myself of the earliest opportunity to acknowledge the receipt of your lett'r of the 13th March last, on the 4th inst., adviseing me of the receipt of mine of the 17th Oct'r, 1818, at the late period of the 29th Jan'y last, with the certif'ts therein inclosed, which I am well pleased to hear. I again am much disappointed, and rather uneasy, that your lett'r does not mention the bank's receipt of my lett'r to the same of the 29th Aug'st, 1818, and the 2d Sept'r follow'g; the first inclose'ng the bank a power of attorn'y to receive my Louisiana debt, as it became due and payable; and request'g in the same that the bank would then do by me as they had done before, for the reasons mention'd, and as the condition acceded to, that led me to open an acc't with the bank, and to leave a power with bank to receive the div'ds on my stock and bank shares, giving the same the furth'r power therein of choosing directors for me; that the bank, thro' their brok'r, would lay out the ball'ce of my acc't within a few doll's, including the sum receiv'd on acc't of my Louisiana debt, in the further purchase of 3 pr. ct. stock in my name and for my acc't; adviseing me of the cost and numb'r of the certif'ts, and to hold the same in their safekeeping untill my further advice on that head.

In that lett'r I adverted to what I could not conceive but a mistake in the bank, of which they had advised me in their lett'r of the 3d of June, 1818, saying that the power I left only went to receive the div'ds on 35,222 dl's 38 of my 3 pr. cent stock, instead of on the whole am't of it, 45,500 dl's 9, which manifestly must been my intention, well knowing the sum from haveing receiv'd the div'd on it but a few days before, and am clear was my order to the notary; and not only to

fill up the power [to] receive the div'ds on all the 3 pr. cts. I then held, but should hereafter hold in that fund; and that div'ds on all other stocks I then held, or should hereafter hold, in the funds of the Unit'd States, and also the same on my bank shares, and so read to me, and the same over again myself; observing I had great reason to be cautious on this head from what I had and was suffering, from a wilfull or accident'l blunder of this sort; and that I hoped the bank on a furth'r reference would find this to be as I have here mention'd, to which I must at present trust untill I hear again from the bank on the subject. My lett'r of the 2d Sept'r, pr. the Argoe, went to advise the bank of my haveing wrote them on the 29th Aug't, inclosing them this power, and repeating the substance of the foregoing. Again I must here observe, that it appears clear to me that my power was full enough, from the bank haveing receiv'd, pr. their lett'r of the 3d June, 1818, 3 quart'rs div'd to 1st Apr'l, 1818, on 1,000 dl's, 7 pr. cts., bo't for my acc't by Stephen Girard, in Aug'st, 1817, beyond the sum I held when the power was fill'd up, as the date will shew; and also in your haveing receiv'd, by your lett'r of the 13th Mar'h, 1 quart'rs div'd to 1st Jan'y, 1819, on 1,000 d'ls more 7 pr. cts., the bank bo't for my acc't on the 2d June, 1818; and also 1 quart'rs div'd to same date, on 2,914 d'ls 88, 3 pr. cts., the bank also bo't for my acc't on the same 2d June, 1818, which latter could not been done if my power had not gone further than to receive the div'ds on the exact sum the bank mention'd of 35,222 d'ls 38, 3 pr. cts.; so again I flatter myself it will prove, and that the same has been fill'd up as I order'd it. And altho' your lett'r, with respect to the bank haveing received the div'ds on my stock, is silent from the 1st Apr'l, 1818, to the 1st Oct'r, 1818, I can make no doubt but it has, and also the am't paid of my Louisiana debt, and the am't of both laid out in the further purchase of 3 pr. ct. stock for my acc't, as desired, and the certifi'ts for the same, in their safekeeping; and to this I must fully trust at present, as I can have no doubt of my power to receive this debt, haveing got to hand the ship Electra, by which I enclosed the same, under cover to the bank, haveing arrived safe, or otherwise I must with pain remark, it will not only be a considerable loss, but a serious disappointm't to me.

Uncertain at present, from the still weak state I feel myself in, from the hurt I receiv'd in the small of my back in North Carolina, how soon I may think it safe to venture on a voyage to America, I propose, in the course of a month, if my strength will admit, to cross to Antwerp, and proceed to try the very warm and salutary baths of Aix la Chapel, and if my strength improves, to visit Paris, haveing become interested in the Bank of France, and latterly considerably so in the funds of the same, as may be easily conceiv'd, as I am circumstanced, without my adding any further reasons for the same. I have therefore to request the bank, as they are in correspondence with Messrs. Baring & Co., merch'ts of this city, and upon a plan thro' them of paying the div'ds on Am'n stock and bank shares, to holders of the same in

England, that they will remit to them, as formerly, the div'ds on my stock and bank shares for my acc't, trusting the bank will be particular in using its utmost care in getting safe bills for the purpose, as I am still short remitted for div'ds to 1st Oct'r, 1799, upwards of £63 sterl'g. I am the further led to make this request from the presid't, Mr. Jones, of the bank, haveing express'd a wish to this effect in his lett'r of the 3d June, 1818, from the pressure of business makeing it rather inconvenient to attend to laying out my div'ds on stock and bank shares in the further purchase of stock, and as the same will make no very material difference, bad bills being avoided.

Untill I hear again from the bank that the power I left was really fill'd up 10,277 dl's 71, short of the am't of my 3 pr. ct. debt, I cannot venture to send a power for this sole purpose, nor a duplicate of my power to receive my Louisiana debt, as I can entertain no doubt, from what I have mention'd, of the first being correct, nor of the latter haveing got safe to hand, although the suspense I am in is a little unpleasant.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To Mr. Langdon Cheves,
Presid't of the Bank of the Unit'd States.

Let me congratulate you and the country on the Lehigh coals being bro't to Philada. for sale, if only for the safety in the use of them, as all the towns in England prove.

Teirs Consols ab't 67.

Endorsed—To Mr. Langdon Cheves, president of the Bank of the United States, in Philadelphia, North America. Pr. Clio.

The long expected Tontine is arrived, and is all I have to advise pr. this opportunity.

222.

Matthias Aspden, London, to Langdon Cheves, president of the Bank of the United States.

London, *July 5th*, 1820.

Sir: I flatter'd myself with hearing from the bank by some of the late arrivals from Philadelphia, in reply to my lett'r of the 28th Feb'y last, and that the same would have removed every idea that the whole of my 3 pr. cts. stock, amount'g to 4814 dls. 88 cts. had not been transfer'd from Washington to the books of the Treas'y of the Unit'd States of Pensylv., from the proofs mention'd therein to the contrary, that had not a little astonish'd me, as it has done others to whom I have mention'd it; and as I have not, and being in hopes I shall soon, and to this effect, it has induced to defer forward'g a power pr. this oppertunity to receive the div'ds on the sum of 10,277 dols. 71, of my

3 pr. cts. that you write me has not been transfer'd to the books of the Treas'y of the Unit'd States of Pensylvania.

Under date of my lett'r to Mr. Stephen Girard, of the 31st Jan'y, 1818, I authoriz'd his, Mr. Geo'e Simpson, cashier to the late Bank of the Unit'd States, and at that time cash'r to the trustees of that late bank, to receive the divi'ds or such further effects, as was or should come due to me from the same. Previous to my leaving Philad'a, I sent a claim to the trustees on the bank, amount'g to 6592 dls. 96, for a loss that truly may be said was "really" incurr'd on impolitic and an improper neglect of trust, that I conceiv'd just, and still do; and also if the trustees were as honest as my case shewed they should, that they w'd allow and duly pay the same; there being effects sufficient. This authority I repeated in my lett'r of the 9th Feb'y follow'g, directing Mr. Simpson in both these to pay what money he might receive, into the bank of Mr. Girard, where he was then cash'r, to be pass'd to the cred't of my acc't with him. As I have not heard from either on the subject since, of the date of these lett'rs, it much inclines me to think nothing has been done; I am therefore induced to here inclose you an order on the trustees for the am't of the div'd they have advertiz'd will be paid to holders of shares, ab't the 25 of Apr'l last; and request, on the receipt of it, you will pass the same to my cred't; and if you can learn what has been further done touching my claim, please to *my* advise me. This loss, the bank was appriz'd, arose from my being "wantonly" hinder'd embark'g at Liverpool in 1807, for Philad'a, after going there with a sufficient passport, and paying my passage for the purpose.

In 1798 I embark'd in a ship, the Thomas, at Bristol for Charleston, and got as far as Cork, ensnared thereto, that proved so leaky on our passage that thinking her by no means "sea-worthy," I left her there, and return'd to England, (Liverpool, via Dublin,) whose safe arrival I could never learn; and have been living from that time to this, under a license while in England. In 1801, I embark'd at this port for Philad'a, in the ship Harmony, Osman, mast'r, and a very dangerous and disagreeable passage I had in her.

A ship I think that formerly belong'd to me, call'd the Chm'g. Nancy, that I sent to Bristol in 1775, very strong iron bill, ab't £400, bo't on the stocks in 1772, as a cedar and live oak built ship. Her floor timbers and lower futtocks, well soak'd in molasses, from the trade she had been in, and likely to last, 50 to 70 years, and may "now" be runing a good ship. I may thank my stars for further escapes, if these are to be thank'd, and not the Lord, for any thing in attending to an opportunity for America, altho' not born I believe under a very fortunate one. I have some notion my brig Ranger, that I sent in 1775 to London, of common and live oak, is still runing.

I am advised by your lett'r of the 8th March, that the ballance of my acc't on the 6th of that month was 3599 dls. 90 cts. including the div'ds you had receiv'd on my stock to the 1st Jan'y, and 54 pr. ct. on 4750 dls. of my Louisiana debt. At this moment, I have only to say

on the subject, that if a more correct construction of my lett'rs of the 31st Oct'r, 1819, and what I mention'd in my last of the 28th Feb'y, has not led you to lay out this ballance in the purchase of 3 pr. ct. Am'n stock on my acc't as requested, that I have to request that you will do the same, with such further sums as you have receiv'd, thro' your broker, on the receipt of this lett'r, holding the certif'tes in your safekeeping untill my furth'r advice; informing me of the dates and numb'rs, direct'g to me as before, or if the bank is restricted by a law to the contrary, they may remit their bill for the same, saying what it [is] for, to Messrs. Henry Hoare & Co., bank'rs, London, to receive the am't for my acc't, and pass the same to my credit; at present the first would be most agreeable. My bank'rs at Paris very regularly remit the div'ds on my French stock to these gentlemen, without loss or trouble. In May they bo't a furth'r sum for me of 24,600 liv'rs, at 74 35—ex'e 25 30.

I have here enclosed a fuller statem't of my acc't with the bank. Difference in our ball'ce 40 cents in my fav'r, with some additional remarks; and furth'r desireing therein the bank's friendly to the extraordinary circumstance of the bank's paying for 2914 dols. 88 cts. for the 3 pr cts. they bo't for me, and getting a certif'te from the Treasury for 2904 dls. 88 cts.; this is a matter not to be overlook'd, the thing duly consider'd, altho' no very great affair in this instance.

I wrote pretty largely to Mr. Stephen Girard on the 28th instant.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To Mr. Langdon Cheves, presid't of the Bank of the Unit'd States, Philad'a.

Bank stock, 219; India, 219, with div'd; 3 pr. ct. 69, with div'd; Russia, 82, 6 pr. cts.; Prussia, 77¾ 5 pr. cts.: French 5 pr. cts., 77 15. ex'e, 26 40; Am'n 7 pr. cts., 105; 6 pr. cts. 102½ a 104; 3 pr. cts. 67. Flour 25s. pr. c.; likely a late harvest.

London, *July 5th*, 1820.

Pay to Mr. Langdon Cheves, presid't of the Bank of the Unit'd States, or presid't for the time being, for my acc't, the sum allotted to be due to me on acc't of the ten shares I held in the late Bank of the United States, agreeable to the second dividend lately adjudged should be made of the effects of the same, and payment thereof to be made on the 24th of April last; which an advertisem't dat'd Philad'a, Mar'h 4, 1820, in the Charleston paper, says will be 1¾ pr. ct. on the capital, or seven dollars on each share. And this shall be your warrant for so doing. Your compliance will much oblige,

Gentlemen, your obed't servant,

MATTHIAS ASPDEN.

To the Trustees of late Bank of the United States, Philad'a.

Endorsed—To Mr. Langdon Cheves, presid't of the Bank of the United States, Philadelphia, North America. Pr. the Venus, for Philadelphia.

223.

Matthias Aspden, London, to L. Cheves, president Bank United States.

LONDON, *July 28th*, 1820.

SIR: Since my lett'r of the 5th ult'o, the contradiction that has been so repeatedly mentioned to me of the whole of my 3 pr. cts. not being transfer'd to my acc't in the books of the treas'y of the Unit'd States, in and for the State of Pensylv'a, by the sum of 10,277 d'ls 71 cts., notwithstanding the repeated "proofs" I have mentioned that so fully prove the contrary, as all say here, has press'd so strong on my mind that I have been led to make strict search among my papers, and the memorand'ms I have of the Unit'd States loan office of the State from whence the certif'ts of my 3 pr. cent. stock were issued, that I have here; and also to refer for these particulars to the list Messrs. Hen'y Hoare & Co., bank'rs here gave me of these certif'ts of my 3 pr. cts. I have here in their safekeeping, and left with them when I went to America in the year 1815; which agree with them as to sum 20,077 d'ls. 71, and State Pensylv'a, the latt'r not quite clear, as from one and the same office, further then by my cheque book with them it appears I paid Derat & Co., brok'rs, for the certifi'te issued from the "Treas'y of the Unit'd States, register's office," under date of June 17th, 1796, am't 1,953 d'ls 31, one doll'r and 31 cts. more then the certif'te issued in liew was really for, as here appears—mistakes not to be guarded against at this distance by the owner, wilful or accidental. The remaind'r of my 3 pr. cts., amount'ng to 28,237 d'ls. 26, were bo't in Philada., 17,416 79 of which were bought in May, 1816, by Mr. Steph'n Girard, bank'r, through my order to him from Charleston, in two certif'tes, both dat'd "loan office, State of Pensylvania, May 18th, 1816." 8,005 dls. 59 by myself the July follow'g, thro' an order to Willing & White, brok'rs, in two certif'tes, both dated "loan office, State of Pennsylva., July 11, 1816." 2,914 dls. 88 was bo't by Mr. Willm. Jones, late presid't of the Bank of the Unit'd States, certif'te dated June 2d or 3d, 1818, under date of my lett'r to him from London of the 31st Jan'y, 1818; but should [have] been bo't 15 m'ths before. This certif'te is in the bank's safekeeping; the others I left in the safekeeping of Mr. Girard's bank, Philad'a, entered, and are still there, if not deliver'd into the safekeeping of the Bank of the Unit'd States, to which, if needfull, please to refer.

The certif'tes for 9,800 dls. of the above 20,077 dls. 71 cts. 3 pr. cts. are headed at top "Unit'd States loan office, State of Pensylvania," and sign'd by Stephen Moylan, commis'r. The other certif'tes for 10,277 dls. 77, the remaining part of the above sum, are headed at top "Treasury of the United States, register's office," without saying where or what place, all signed Joseph Nourse, regist'r; understood

by me to live in Philad'a, and his office be there also. The whole, except one dat'd 2 Sept'r, 1795, for 2986 49 cts., sent to Mr. Thomas Morris, of Philad'a, were sent to the late Bank of the Unit'd States, who receiv'd the dev'ds for me, and remitted them to me through Messrs. Baring & Co. And this until the 1st Jan'y, 11, on the receipt of my advice to the contrary, on account of so many of the quarterly div'ds being fritted down, by the many bad bills return'd, and my intention of early return'g to America. And here let me ask, if this stock was not transferr d to my acc't at the Treasury of the Unit'd States, State of Pennsylvania, how could the bank receive the div'ds on the same; and how am I to get over this?

Below I have added for your governm't the date of these certif'tes, sum, office issued from, and by whom signed, which I hope will make it clear that the power I left to receive the div'ds on all my stock was and is sufficient. I am anxiously waiting to *to* hear from you again on the subject, in reply to the late lett'rs I have wrote you; and untill I do, I cannot think a further power is really needfull.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

N. B. One certif'te dated 2 Sept'r, 1795, issued from the "Treas'y of the Unit'd States, regist. office, sign'd Joseph Nourse." Amount, $2986 49.

One do. dat'd 17 June, 1796, issued from the "Treas'y of the Unit'd States, regis'rs office, signed Joseph Nourse." Am't, $1952 54.

Five do. dat'd 15 June, 1796, issued from ditto, and signed ditto, for $1000 each. Am't, $5000.

One do. dat'd 15 June, 1796, issued from ditto, and signed ditto. Am't, $338 68.

They do not mention the State, or place where, it appears here Philad'a, State of Pennsylvan'a, from Moylan succeeding Nourse, in signing the certif'tes for Am'n stock.

Two certif'ts dat'd Sept'r 6, 1800, issued from "Unit'd States Loan office, State of Pennsylvania," signed Stephen Moylan, commis'r, for $2500 each. Am't $5000.

One do. dat'd Aug'st 22, 1803, issued ditto, signed Stephen Moylan, commis'r. Am't, $3000.

One do. dat'd Oct'r 10th, 1803, issued ditto, sign'd ditto. Am't, $1800.

The error appears to me to be this, that when the U. S. "register's office' was removed from Philad'a to Washington, that they did transfer the stock held in Pensylvan., and that on which the div'ds were receiv'd under a power in Philad'a into set of books open'd for the purpose; and which, if not done, I think w'd be very advisable to do.

Aug'st 2. Wheat, 85 pr. qr. Flour, 26 pr. C. Stock much the same as pr. my last, except French and Prusian, which are 2 pr. cent. better, and Bank of England ab't 4. Exch. on France, 25.65.

I have been, lately by Messrs. Barney and Co., advised that they will

be ready on the 1st Aug'st to pay me a final div'd on the bill of Peter Blight's, ret d protest'd, for £5027 16, say £6000, with damages of 12s., remitted to pay div'ds to 1 Oct., 1799; a poor affair, as I have been long expecting to receive the whole of the ballance due to me to that date, £60 sterl'g, from what the black ey'd Susan told me at Charleston, his old friend; and from what the brok'r told me,' (here, when I bo't the stock) that the late bank's bill brok'rs guaranteed the bills they bo't for them; a common thing for the insurance brok'rs to do here, for a small prem'm with respect to the underwrit'rs they take on their policies; and what some have done for me, when I paid 25 guin's pr. ct. on a ship in time, from Honduras to Bristol, that could shew most frigates running a clean tail, and likely spared them a reef in her topsails, too; perhaps at that time they might have considered baretry the greatest risk—(a word to the wise again.)

Endorsed—To Mr. Langdon Cheves, presid't of the Bank of the United States, Philadelphia. Pr. the Electra.

224.

Notice of election in South Sea Co., addressed to "The Rt. Hon." Matthias Aspden.

The election for sub-governor and deputy governor of the South Sea company being appointed for Wednesday, the 29th of January, and the election for twenty-one directors of the said company for Friday, the 31st of January; your votes for the enclosed lists are required by your most humble servants,

South Sea house, 25th Jan., 1823.

Claude Geo. Thomson,
David Powell,
J. M. Raikes,
F. Ruling,
Chas. Bosanquet,
Benj. Narrain,
N. Peters,
Thomas Vigne,
Tho's Daniell,
C. Raymond Barker,
Wm. Whitman,
Geo. Hinckel,
Charles Franks,
A. Pole,
John Thornton,
W. Heygite,
H. L. Thornton,
Edward Vaux,
C. Holford,
Rob. Baker,
Th's Warren,
Nic's Bearse,
J. Beauclerk.

Endorsed—Rt. Hon. Matthias Aspden, at Messrs. Hoare & Co., bankers, Fleet street.

225.

Note by Matthias Aspden, at the foot of the above.

Note.

Thinking it needful, on passing the Alien bill in 1798, to give an acc't of myself as *as* a "case," as the same required, from being within the outlaw'd provinces a few months after "date," under the *the* very "harsh penalties thereof," which I did, and found I came within the same, and a passport requir'd to embark in a ship at Bristol for Charleston, that I was ab't to do, which put into Cork, to join convoy, which I left from her appearing to me very "unseaworthy," and no doubt so proved, as I could never learn any acc't of her safe arrival. On my ret'n to England, and haveing some money laying dead at my bank'rs, I desired my brok'r, Antrobus, who, I think, a [little] before and a little after the first Am'r war, lived in Philadelp'a, down Front str't, a respectable taylor, and if not dead, may be ret'd to America again, upon this "discovery," to buy me some stock in the "south comp'y," who thought proper on this acc't, with my assenting to it, to describe me in the books of the same "the Rt. Hon'ble Matthias Aspden, of Philadelphia;" my books, I may venture to say, sufficiently supporting this description, if no person could be found, man, woman, or child, that I have either wrong'd or oppressed did not do it. Trusting my "signature" to the "acceptance" of this stock, and to the receipts for the dividends on the same, would fully prove I was the "real" holder of it.

M. A.

There is again serveing on juries, special and grand, before I was eighteen, an office not desired by me, and much *to* young, not knowing my age, nor nothing near it.

There has been found gr't use in settlements on wifes in Europe, particularly where the husband is exposed to accidents. In America there is little doubt but they would be full as much, if not more so.

226.

Matthias Aspden, London, to L. Cheves, president of the Bank of the United States.

London, *February* 10*th*, 1823.

Sir: The new year has now began some weeks with much severity here, and I am without a lett'r from you since my last of the 6th of Novm'r last, pr. any of the late arrivals in short passages. This I hope will not be the case long, and the contents of y'r letter pleaseing as the late speech of the Presid't may be said to be. This lett'r, going by a vessel direct for Philadelphia, I am led to inclose you a list of our South Sea comp'y, a thing, as yet, that may have not been seen with you. It may be of some use in shewing the advantage of Holland being so near; and curious in shewing how the Dutch holders of stock

are named and described; and also of some, in other respects, to the directors or some of their mercantile friends, altho' not the last, there is not much difference in the holders of stock in the present list.

I am sorry I have to mention I have experienced another severe attack of the same lumbago, gout, or gravel I did on my ret'n in Oct'r from the sea-coast, that I have hardly been able to walk or turn in bed, and inclined to think from attending the election on the 31st at the South Sea house, in their gr't damp room, in which it's likely there has been no fire these three years, since the last election. The dampths and dark foggs in this gr't city, and along the coast, in the fall and winter, I believe are very hurtfull and fatal, and send many to the south of France. The likelihood of a heathenish and senseless war between France and Spain, from Lewis's late speech, as he has nothing to object to the Spanish constitution, or to fear from Spain, as the King's patronage is very ample, has occasion'd a gr't alarm at the stock exch'e, and caused all the stocks materially to fall. Spanish bonds from 88 to 35½, and makes a gr't cry among the holders, and shews I was right in saying, in a former letter, it was a "bold adventure" to be a purchaser of them. I am among the sufferers, but as I am not forced to sell I shall wait and hope for the best. For Am'n stock no prices have of late been quoted. French 5 pr. cts. ab't 76. Bristol 3 pr. cts. ab't 75. I believe I must be forced to venture to be a buyer of some soon, trusting that this Governm't will keep to its text.

I am, sir, your obed't servant, MATTHIAS ASPDEN.

To Mr. Langdon Cheves,
Presid't of the Bank of the Unit'd States, Philad'a.

Endorsed—To Mr. Langdon Cheves, presid't of the Bank of the United States, Philad'a, North America. Pr. the Moss.

227.

Bill of Hale & Davidson for purchase of stock.

Bought, by order of the cashier of the Bank U. S., for ac. of Matthias Aspden, of London:

$2,368 87 three per cent. stock, at 75 pr. cent. -	$1,776 65
B'ge - - - - - -	4 44
Transferred to himself - - -	$1,781 09

Received payment. HALE & DAVIDSON.
Philad., 19 April, 1823.

228.

Matthias Aspden, London, to N. Biddle, president Bank United States.

London, *April 25th*, 1824.

Sir: I have been fav'd with the bank's lett'r of the 12 of March

the contents of which I have duly noted; and, with other things here, added to the near approach of the paym't of my 7 pr. cts., places me much in a strait, at this moment, what course it will be best for me to take.

At present, I am inclined to think I shall venture to embark for America in June, if I am obliged to substitute rice for bread the passage over—still weak, unfortunately as I am, in my back and loins, and with little or no appetite. My inducem't to opening an acc't, and leaving a power with the bank, was on acc't of my being one of the proprietors, and of course rather so bound if I consulted its interest in this respect; and to receive deposits, from time to time, was its further int'st, particularly as I intended to be perfectly correct with it, and to give the bank as little trouble as possible, which I may venture to say has been truly the case; not givin' the bank the trouble to remit me bills, good or bad, for my div'ds, as it chanced, as the former bank undertook to do; nor do I think I am likely so to do. You seem to think, from my haveing "lived in Philada., say eight and forty y'rs, except some short visits since, I could be at no loss to what safe and proper person to send a power." This I can assure you, when I was in Philada., in 1817, from deaths, and the gr't changes from other causes, I neither saw an old face or an old friend whose opinion I could safely take, with respect to proper council, nor with respect to a safe and proper person to leave a power. And if the bank had made an objection on this head, I should have left a power with Mr. Stephen Girard, from what I had seen and understood. And here I am sorry to observe, persons comeing from America have been so remarkably shy, from what good cause I know not, in calling upon me, or addressing themselves to me, either at the New England or Pensylv'a coffee houses, that in fact I have seen no person, knowing they were from thence, this many y'rs past, although they might been certain of the refreshment of a sober man, a dish of tea or coffee.

It is a puzzle with me and many others, what can be the cause of stock getting up so high with you, particularly the 3 per cts., from the gr't abundance of almost all kinds in the markets, unless the banks, from want of paper to discount, think themselves at liberty to buy stock, from the ready circulation they find of their issues, to almost an unlimited extent, and in order to keep up their credit in making something of a dividend.

From the high price stock has got to here, I may apply the same remark to the banks and Bank of England here; and, in particular, to the latter, from the ready circulation of its paper on the continent, and at a considerable pr'm as the cause of it, and the int'st it has therein.

I am glad yr. letter mentions the 10,277 71 d'ls of my 3 pr. cts., said to be at Washington, to which I have so repeatedly alluded, as a matter of astonishm't to the late presid't of the bank, as I never bo't any 3 pr. cts. there; and further, from my haveing received the divid'ds on this very stock, and on all my stock in Philada., to the 1 July, 1817, which the warr't for the same that I paid in, with an endorsem't on

the back to Mr. Girard's bank and the Bank of the U. S. will fully shew; of course the power I left a few days after must have been accordingly. All that the late presid't has wrote me on the subject, is, that the stock "was there," but not a word in explanation how it got there; which is the question and mystery that wants an explanation, and has been very perplexing and alarming to me.

Your lett'r of the 23 Novem'r last, mentions the certifi'te of that date, that had been bo't for me, was filed with my other, but not the numb'r; and y'r lett'r of the 12 of March says nothing of the certifi'te you bo't for me of that date being filed with my others, or the number of it. I have often been surprized that the stock of the southern States of America sh'd find such a ready sale, to which the exports are trifling, and the stock of the Unit'd States, N. A., now long acknowledged independ't, and the governm't well established, and to which the exports are still very large, sh'd find here little or no sale. Valuable as it must be for a safe and sure remit'e, and so desirable a purchase to many, these very uncomon and guessing times—this is a matter that wants looking into, and to be attended to.

I am, sir, y'r obed't serv't,

MATTHIAS ASPDEN.

N. B. When last in Philada. the only old neighbours I saw was Jos'h Masters, whose cooper's shop join'd my stores, at the back of my house that extended on to the wharf, a daughter of Stephen Carmack, and John Clifford—that I rather doubted, if not an "equivoque" was a real guess—"find me out if you can." Altho' he pass'd on me as the son of Tho's and Hannah, but a son, most likely, that was a present to them, or beg'd by them out of the ground or out of the clouds, and his brother, more likely, from the little likeness, where friends may sometimes get them as well as some others. This the "spirit" gave a hint one first-day, when I was at St. Martin's meeting here, with a loud voice, and in very plain English, reproaching for not going up to their couch, but to kiss away, which set the old ladies a smirking, the young girls a titering, and the old dons to look as grave as owls, and the greenhorns to stare with an utter astonishm't—what they call'd me when I first came to England, and long after, and what my clarks might call me, and some of my servants, plainly giveing them to understand all cheating would not go unchasticed. On this subject the knowing ones will want no comment addressed to their "understandings," nor on my situation, of which no doubt you have enough; I will trespass no further, and only add, that I determin'd, if I got safe out, not to go to such a dangerous meeting very soon again.

May the 25th. M. A.

I am sorry I have to mention I have had, within this month, or five weeks, another severe attack of the rheumatic gout down the spine of my back, and across the lower region of my stomach, full as bad as that I had ab't seven m'ths ago. That I have not been able to turn in bed, ride, or walk, without pain or difficulty, and has put an end to

my thinking to embark for America in June, whatever I may be able to in Aug't; if later, it may induce me to embrace an opportunity for New Orleans, as likely to be the most agreeable and nearest way home, altho' a good deal the furthest way about, but often they say the nearest way home, and avail myself of the steamboats to Pitsburg. In the mean time, I will venture to send the bank, as perfectly in its way, a power to receive the divid'ds on the 10,277 71 d'ls of my 3 pr. cts., said to be, but unaccountably to me, at Washington, if the power the the bank has hath not proved sufficient, if not with you myself; and also the am't of my 7 pr. cts., say 10,000 d'ls, and lay the same out, with what further ballance the bank may have of mine, in the purchase, on my acc't, of that stock of the Unit'd States Governm't that bears the best interest, and the paym't of the princip'l, not within ten fifteen years; leaveing this to the bank's superior judgem't, fileing the certif'ts for the same with my others, for from the lists we have here they appear something of a contradiction, from the diff't inter'st the bear, and the differ't periods of the paym't of the principal. In fact, a perfect jumble, not to be understood with't being explained. As what can make the State of Pensyl'a, prosper'g as it has, want to borrow 6,000,000 d'ls, after the am't of taxes, customs, and dues it has been receiving, and seems to imply to much of an imperium within an imperi*an*, at this distance.

I have here inclosed the last list of holders of bank stock in Britain, thinking it may be of some use, or guide, to the bank or bank's friends, who may have commands to intrust to persons they may hope to be safe, touching concerns in the vicinity where they live. As I see no names in the list of any holders, described either of Philad'a, New York, Baltimore, or Boston, nor am I myself, thro' my brok'r, Brooksbank, or his partner, Antrobus, omiting to keep to their first description of me, of Norfolk str't, late or formerly of Philad'a, merch't, in the 3 pr. cts. they bo't for me ab't the 20th of Aug't, 1778, being the first sum paid me here, except some small sums for curr't expenses, by Ben. & Col. Bewicke, out of cargoes consigned to them, and their house in Cadiz, previous to the 20th July, 1775, includ'g the sale of my brig Ranger, a very Flemish affair, as was the cargoe of flour, at the prices they sold it—a long time in store *to*—better for me to have been burnt alongside my wharf, with't judge or jury. The extremes of war—cruel war.

I am, sir, your obed't servant,

MATTHIAS ASPDEN.

To Mr. W. Biddle, presid't of the Bank of the United States, Philadelphia.

It is painful to me to add, that I find my sight darker than it was six m'ths agoe. The prevailing winds we have here since Feb'ry *has* been easterly—at times raw, very cold and searching.

882.

220.

Matthias Aspden, Blackburn, to H. Nixon, Philadelphia.

BLACKBURN, 29*th Aug't*, 1831.

Mr. NIXON.

SIR: We understand that a person of the name of John Aspden has instituted proceedings in capacity of heir-at-law to the property of the late Matthias Aspden, merchant, in America.

We have to inform you that the laws of this country recognizes no one as heir-at-law, when the property is personal or moveables. Even if that were the case, the property freehold of inheritance, he would be superseded by a John Aspden, of London, who is another older brother's son. There are at least 20 claimants who have mutually pledged themselves by a bond, in order to prevent litigation, to divide in equal shares amongst them the property of the late Matthias Aspden; of which number the aforesaid John, of London, is one, and John Aspden, who has recently been over in America, is another of the party.

The late Matthias Aspden was in the habit of requiring a list annually of his poor relations in England, promising to make them all comfortable at his decease; (those relations in America are illegitimate.) We therefore earnestly desire you will be so good as to settle the business according to the provisions of the will, as speedily as possible, and relieve the pressing necessities of his poor but legal claimants in this country. And may the Almighty endue and actuate you with a spirit of justice and feeling, and reward you fourfold in yielding to their claims, is the prayer of your obedient humble servants, for himself and others,

MATTHIAS ASPDEN.

P. S. Address for me, to the care of Rich'd Corless, Blackburn. Please to write by the next packet.

Endorsed—Nixon, esq'r, banker, Philadelphia, America.

PAPERS OF UNCERTAIN DATE.

230.

List of births, &c., of Aspden family, on a blank leaf in the folio bible.

November 21, 1784, was born,

Novemb'r 21st, 1748, was born, Matthias Aspden, jun'r.

Matth's Aspden, sen'r, departed this life, August 19th, 1765, in the seventy-fifth year of his age, in Philadelphia, and buried in the Friends' burying ground; leaveing a daughter named Mary, born at Padium, in Lancashire, Old England, 1718, married to the late Henry Harrison, esq'r, deceased, of Phila'a; and a son named Matthias, (the person mentioned above,) who writes this, and

believes, from good information, that he was born in the year 1757 or 8, and not in 1748, and that therein was a mistake, the same being inserted by his father, (say first time;) in his handwriteing, shortly before his death, with't adding furth'r who was born, which led him from his tallness, and differ't acc't told him of his age, to believe it was him, and appointed in his will one of his executors.

His father, Thomas Aspden, was born in or ab't the year 1648, (believed at Close house, near Blackburn,) Lancashire, and of a respectable and antient family; married in the year 1688, Elizabeth Scroop, a descendant of the antient and noble family of that name; was buried at Padium, in that county, March 3d, 1728. His wife at the same place, Aug't the 27th, 1727, leaving the following children, all born at Simonstone, near Padium, and baptised at the latter place.

1st. John, baptised at Padium, Aug'st 4th, 1689; buried at Deptford, in Kent.
2d. Matthias, buried in Philad'a.
3d. Andrew, ditto, buried at Padium.
4th. Thomas, buried at Coln, Lancashire.
5th. Nathaniel, buried at Magnus Harwood.
6th. Timothy, buried at Padium.
7th Richard, in the army, at Portmahon.
8th. Ralph, and 9th, James, both buried in Virginia.
10th. William, buried at Magnus Harwood, Lancashire.
11th. Mary, and 12th, Margery, two daughters, both at Padium.

Rebecca Aspden, wife to the above Matthias Aspden, sen'r, merh't, and mother to Matthias Aspden, jun'r, buried in Philadelphia, in the Friends' burying ground, Oct'r, 1773, leaving alive at her death, by Roger Hartley, yeoman, of Buckingham, Bucks county, her former husband three sons and three daughters, and upwards of thirty grandchildren.

Philada., Nov'r 27th, 1791.

231.

List of births, &c., of the Aspden family, on loose papers.

PHILADELPHIA, *ss.*

Joseph Roberts, of the city of Philadelphia, late chashier of the Bank of Stephen Girard, being duly sworn, deposes, that he has seen the late Matthias Aspden, formerly of the city of Philadelphia, write, and has had frequent opportunities of seeing and becoming acquainted with his handwriting, and that he verily believes that the two papers hereunto annexed, containing memoranda of the names, &c., of the children of Thomas Aspden and Elizabeth, his wife, are in the proper handwriting of the said Matthias Aspden.

JOSEPH ROBERTS.

Sworn and subscribed before me, this 14th day of June, 1834.

WILLIAM MILNOR, *Ald'n.*

Thomas Aspden, of Simonstone, near Padium, Lancashire, born in

or ab't the year 1648, a descendant of the ancient and hon'ble family of that name, married Elizabeth Scroop, in the year 1688; and had by the said Elizabeth the following children, born at Simonstone, and baptised at Padium.

John, son of Thomas Aspden, baptised Aug. 4th, 1689; buried Deptford, Kent.

William, son of Thos. Aspden, bapt. July 26, 1691; buried Harwood, Lancashire.

Matthias, son of Thos. Aspden, bapt. May 4, 1695; buried at Philadelphia.

Nathaniel, son of Thos. Aspden, bapt. Ap'll 18, 1697; Harwood, Lancashire.

Andrew, son of Thos. Aspden, baptis. Dec'r 28, 1701; buried at Padium, Lancashire.

Margery, daught'r of Thos. Aspden, bapt'd June 4th, 1704.

Mary, daughter,	"	buried at Padium.
Timothy,	"	Do.
Thomas,	"	Coln.
Richard,	"	buried at Portmahon.
Ralph, James,	"	buried in Virginia.

Thomas Aspden, the father, buried at Padium, March the 3d, 1728; Elizabeth, wife of Thos. Aspden, buried at Padium, Aug. 27, 1727.

Timothy, Andrew, Thomas, buried at Padium, at Coln, } Lancashire.
Richard, at Portmahon.
Ralph, James, Virginia.
Matthias, at Philadelphia.
John, at Deptford, Kent.
Nathaniel, William, Magnus Harwood, Lancashire.
Mary, Margery, Padium, Lancashire.

Thomas Aspden, the father, born ab't the year 1648; buried at Padium, Lancashire, March 3d, 1728.

Elizabeth, wife of the said Thomas Aspden, maiden name Scroop, buried at Padium, Lancashire, Aug. 27, 1727.

232.

List of births, &c., of Hartley family.

Jennet Hartley was born the 3 day of May, in the year of 1756.

Benjamin Hartley was born the 7 day of February, in the year of 1758.

James Hartley was born the 26 day of July, in the year of 1760.

John Hartley was born the 26 day of October, in the year of 1762.
Roger Hartley was born the 7 day of January, in the year of 1765.
Thomas Hartley was born the 7 day of August, in the year of 1767.
Peter Hartley was born the 11 day of January, in the year of 1771.
Rebecca Hartley was born the 13 day of August, in the year of 1773.
Edward Hartley was born the 21 day of July, in the year of 1781.
Martha Hartley was born the 25 day of January, in the year 1783.
Barsheba Hartley was born the 18 day of July, in the year of 1785.

Endorsed—Ellen Hartley, dead; Matthias Hartley, dead; Henry Hartley, dead.

233.

From Thomas Aspden to Matthias Aspden, London, with extracts from registers, &c., enclosed.

DEAR COSEN:

I have had the pleasure of seeing youre letter dyrected to the Reverend Mr. Fishwick, but as he not being capable of answering youre request, being verrey feeble and far gone in years, he aplied to Dockter Grimshow, of Burnley, to take the truble from him, and he came over to Harwood to inquire for some of the Aspden's famaley, and in so doing he was dyrected to me, but I was not at whome, so he tould my wife the consarns, and desired me to go over to Burnley, as so I dod withoute delay, and he made me understand somewhat of youre requests; so I return'd to Mr. Fishwick, but he could not reed the letter to me, neither could I before I had perused [it] several times, before I got to understand the pertickalers, for I brought it alonge with me; so I went first *went* to Whaley to inspect the register,b ut to no purpose; and then I went agaen to Padiam to inspect that register in a more pertickeler manner to asist Mr. Fishwick, and with much peruseing I found registerad at Padiam the names inclosed, and are taken oute by Mr. Fishwick, and he thought I was the fittest parson to undertake to ans * * * * * * my utmost indeuavers to give you satisfaction; but with regard to grandfather and grandmother, it did not apear that I could be aney waes satisfied with writeing to the vickar at Bolton, so I rode over my selfe, and ther was pertickaler search made, but to no purpose; and then I went to Burnley, as I had some thought that cosen Mary Harison was baptised there, so I got that raester inspected from the year 1710 to the year 1726, but not any such a name to be found; but I hapened to meet with wone Mary Cook, daughter of Christ'n and Izabell Cook, of Burnley, and cosen to Mary Harison—shee informs me that shee was baptised at Burnley, and tould me the names of godfather and godmothers, but I forget them; and that a gentleman from Liverpool and Mr. Holsted, of Burnley, came with him maney years ago, by the order of Mr. Harison, but at that time her name could no where be found.

We cannot find oute who youre father was named after, nor any of

ower unckles, only Thomas after ower grandfather, as there was ten brotters and was all born in Simanstone, and buried at the places following: Timathey and Andrew at Padiam, Thomas at Coln, Richard at Portmahon, Ralph and James at Virginey, Matthias at Philadelphea, John at London, Nathaniel and William at Harwood, a sister Marey and Margerey at Padiam, and what small thing shee left shee ordered verry discreetely, and without partialety, amongst thirteen neffeys, niecess, only my sister Marey was exepted, because shee thought shee was not needfull; a grandson to unckle Tho's at Coln, wich was dark, shee left him 2 guienies extra. I expect you wo'd be desireouse of an answer from Mr. Fishwick before this come to hand, but there was three weeks expired before I got inteligence of youre letter, and with haveing so maney places to go to it stole away much time; but if you wod not a thought it two much truble * * have given us a personal visit, wee should have esteemed it as * * petickeler faver, and should have been extremely well pleased to h * * seen you—but I flatter my sefe you will faver me with a few linès before you go to America, as it will much oblige

Youre most affectionate cosen, and well-wisher,

THO'S ASPDEN.

I expect you will receve a letter dyrected to you with wone inclosed for Mr. John Hall, at Philadelfea, hopeing you will do the faver, if it is in youre power, to get it to hand: he is grandson to Mrs. Nancey Hall, wich kept the Swan in Whaley when you lived there; he is plumber and glaseier in Philadelfiea, and his father is verrey lately come into poseshion of an estate of upwards of 200 a year, and you will, I hope, do your utmost to find oute.

Endorsed—For Mr. Matthias Aspden, to the care of Messrs. Henrey Hoare and Companey, bankers, London.

The firs matter is, where my unckle Matthias was baptised—the next, where my grandfather and grandmother where married at. I understand my grandmother came from Bolton le Moors. If Tho's Aspden was married to her there, and the time when, and her maieden's name, I have been informed it was Scroop. The next the baptism of my unckle Matthias Aspden's daughter, Mary Watson, and time of birth mentien'd in the register. The next I am to inform him of my aunt Margrey Baley's baptism, and then of my father's brothers.

Mr. Fishwick, for the redeyest, tooke this paper to put douen the names registered at Padiam, and as it happ'ned so, I thought most proper to send it so; but the above is the pertickelars of youre letter wich I had taken oute before the redeyest.

Margery, daughter of Thomas Aspden, of Simonstone, bap. June 4, 1704.

Andrew, son of Thomas Aspden, of Simonstone, bap. Decem'r 28, 1701.

Nathaniel, son of Thomas Aspden, of Simonstone, bap. April 18, 1697.

Matthias, son of Thomas Aspden, of Simonstone, bap. May 14, 1693.

John, the son of Thomas Aspden, bapt'd Aug't 4, 1689.

William, son of Thomas Aspden, of Simonstone, bap. July 26, 1691.

The register at Bolton I got inspected from the year 1648 to the year 1688, and not any of the name to be found.

THO'S ASPDEN.

Matthias Aspden, of Padiham, and Mary Watson, of Cliviger, married July 31, 1718.

Bridget, a bastard child of Elizabeth Hey, by Matthias Aspden, bap. Jan'y 24, 1719.

Thomas Aspden, of Simonstone, bur. March 3, 1728.

Elizabeth, wife of Thomas Aspden, of Simonstone, buried Aug't 22, 1727.

The birth of Matthias Aspden not found in this register.

JA'S FISHWICK,
Cur'te of Padiham.

234.

Entries in Matthias Aspden's ledger, folio 75.

1778. Dr. Account of rent.

June 2d. To Ja's Hartley, rent of Jos'h Shewell, June 2d, 1778, rece'ed by Js. Hartley, pr. his acc't curr't of May 14, 1784, for my house, stores, and wharf, on account, in Water street, Philadelphia - 18	£13	00 0
To do. rent of D. Alexander, rece'ed by J. Hartley, pr. his acc't curr't of May 14, 1784, from Aprill 1st, 1776, to Jan'y 1st, 1782, when seized by the commissioners of forfeited estates, situated in Newton township, in the county of Chester, and State of Pennsylvania, 18	82	13 6

1784. Dr. Joseph Shewell.

Apri. 1st. To stock, for rent of my house, stores, and wharf, in Water street, Philadelphia, from May 1st, 1776, to Jan'y 1, 1782, when seized by the commissioners of forfeited estates, and interest agreed to be allowed thereon, due to the 1st Aprill, 1784, pr. my attorney James Hartley's acc't, who lett him the house; £13 pd., June 2d, 1778, on acc't, being deduct'd - - - - - - -	452	12 5

Princip'l - -	£385	16	8
Inter'st - - -	79	15	9
	465	12	5
Paid on acc't, deduct -	13	0	0
	452	12	5

See particl'ars in my old lett. book, 1st leaf.

1792. Dr. State of Pennsylvania.

To stock for my house, stores, and wharf, in Water street, Philadelphia, pr. valuat'n on affirmat'n - 3350 0 0

To ditto, for my plantation in Newtown township, county of Chester, of 160 acres, besides 6 pr. ct. allowance for roads, pr. valuat'n on affirmat'n - - - 1150 0 0

N. B. My estates here mention'd were seized by the commissioners of forfeited estates, Jan'y, 1782, under, I conceive, an illegal and false attainder for high treason. Illegal, because I left America in Sept., 1776, before the government was establish'd or form'd, being (exacted thereto, and render'd qui tam,) and therefore had no right, and of course no power to attaint me; and false, because I was not guilty of the treason alledged, nor could be guilty of it in England, three thousand miles off; or intended, which I discover'd on reading an adjudged case in Dallas's report this year in Philadelphia. See Chapman's case versus State of Pennsylvania.

1799.

Jan'y 1. To stock for rent, or usus fructus of my plantat'n; its improv'd value as a good dairy and wheat farm, only ab't 14 miles from Philad'a, reckon'd worth £60 or £70, from Jan'y 1st, 1782, to this date, 17 yrs., a £40 a yr. - - - - - 680 0 0

To ditto, do. of my house, stores, and wharf, do. do. £175 a yr. - - - - - - 2975 0 0

1782. Contra, Cr.

Jan'y 1st. By bonds, for paym't of princip'l due on Abram Liddon's bond - - - 4 281 16 0

Dr. Kingdom of Great Britain.

1799, Jany.

To stock, for the amount of my claim on the honor and national justice thereof, for losses incurr'd under a subpœna, or bill of pains and penalties, called the prohib'ry act, £45,055 15 1 sterling, exch'e 166⅔ 75,092 18 5¼

Agreeable to a statement sent to the lord chancellor, on the 18th Decemb'r, 1798, since corrected in a small matter of int'st, and to a larger amount than when examined by the commissioners of American claims, (had the been disposed to hear me further, and to have gone fully into the subject and merits of it,) exclusive of plate and debts, (my claim of the latter being withdrawn from the commissioners' observ'g to me, that debts were recoverable under the treaty, and the hope I entertain'd that some friends would pay at all hazards,) and debenter for the partial compensation of my real estate in possession, allowed in 1788, payable in eight year, in installments, with inter'st thereon, untill Jany. 1799, which are deducted, principal'y for losses under the penalty, and that we are intitled to losses under the penalty, or a subpœna will be admitted by every impartial judge, particular'y in a national case of the utmost magnitude like this; being specially required by the prohibitory act, within the time limitted, to send my vessells to England, either to be employed in the transport service, or lay up, or to sell for what they will bring, and did, conforming before to the restrain'g bill, thereby compell'd to give up my business in America, and leave it, my native land; which invidious and grievous hardship was bro't forcibly to my recollection from having embark't at Bristol, agreeable to the passport granted me, and used diligence so to do, as required by the present Alien bill, under the rigorous penalty it inflicts, to wit, a year's imprisonment, or transportation for seven years, in July last, on board the ship Thomas, Capt. Luscomb, for Charlestown, and proceeded in her to Cork, where she was to join convoy, and there left her, from the ship proveing very leaky, in King road, and on the passage, (and the doubts I had from the likelihood of a war between France and America, from the public prints. Should we be taken, I might not be exchanged by either side, if detain'd a prisoner, from my not being a real Brittish subject, it must appear from my passport; nor, perhaps, real American citizen, from the illegal confiscation of my estate from the time I left America, Sept., 1776, as the record in Chapman's case, if applicable in all points, could be bro. in evidence again me, although the State was in possession of my estate, seized under an attainder, (that was false, and the council had granted me a pardon, signed by an old servant,) and returned to England; this the disappointment, with recent loss and suffering thereby experienced, bringing fresh again to mind my former heavy losses and sufferings incurr'd under the penalty in the prohibitory act, which a period of more than nine year, when examin'd by the commissioners of American claims had nearly effaced, led me to send the statement here mention'd to the lord chancellor, to hand to the King, (since his suitor in chancery for the same,) that they might see, haveing an eye to the administration of justice, nationally and individually, in what manner it had been rendered to me, under the bill to enquire into the losses and services of American sufferers; observeing that I believed they would agree with me, that it would never be considered as worthily done in any State to proffit in this manner by the

time and talent of a virtuous and valuable citizen, whose plantation alone in Newtown, bred a farmer, would been enough for him, and on that he could have been put in little or no fear by prohibitory acts, either of life or want, comparatively, as the event proves on passing this act, devoted to destruction by the first stroke of the King's signature to it, reproachfully left without a single stipulation in my favor in the treaty, or other like sufferers, to his gr't disappointm't, and now as it were a prisoner under the Alien bill, should it on trial be found to really apply to me. And I may further add, had I not been in the number of those that believ'd in the "mighty arm of Britain," and words of promise to the well affected, I could not have rendered obedience to this barbarous and highly unconstitutional act, and merely accidental thro' the criminal conduct of a house at Cowes, from the deviation they made in the voyage, and the detention of a ship I had consign'd to them, that sail'd before advice had been receiv'd of the passing of this act, that it was in my power perfectly so to do—so greviously did it affect me, as may be well conceiv'd, settled there, and circumstanced as I was, and a minor, as I have since been inform'd, that had no desire to leave it, and should not have done, had not the obedience render'd to this act compelled me to it.

235.

Mr. "Hall" to Matthias Aspden.

Mr. Hall would have been happy to have done himself the honor of waiting on Mr. Aspden, his countryman, this morning, if he had not been impeded by sundry affairs which demand his presence.

Mr. H. hopes that, in the course of the day, it may possibly be convenient to Mr. Aspden to give him a call. If not, Mr. H. will have the pleasure of seeing him at Wolfen's in the course of the evening.

Monday morn.

236.

Draft of letter, Matthias Aspden to Lord Lansdown.

Mr. Aspden presents his compliments to Lord Lansdown, and acquaints his lordship some compensation has been allowed him on his claim, which he presumes may have arose from the information his lordship gave of his having understood a proper consideration had not been had to his case, and the concurrent testimony of Mr. Anslie, sent to make enquiries in America. He begs to thank his lordship for the part he owes to him therein, and to assure him a proper sense of it is not wanting. The sum, he observes, could be but a slender object with him, which, what has been allowed him, £1,184, may show; or could it be right to keep him so long in the hurtfull and painfull state of suspense he has; and is principally satisfactory to him, as it removes any imputation of his having presented a fraudulent claim; on any

other ground he conceives the commissioners could have no right to reject it; and on this he was conscious to himself the had none.

The consideration that has been had to the cases of most from Pensylvania, between whose situation there and his, he believes he may venture to say, there was no comparison, gives them little reason to regret there was neither stipulation or amnesty in the treaty; either of which, to him, would [have] been of the first importance, and has much cause to mourn that it was otherwise.

He may truly add, he was the first in the way to feel the wrath of this country, (tho' an unoffending party,) and the last to meet with satisfaction, if the consideration had to this case can be said to be any.

His estate was valued a period * * was his own, at £4,500 curr'cy, and would have sold for upwards £5,000—

Say - - - - - -		£5,000	0 0
Rents from '76 to '89 - - -		1,912	0 0
		£6,912	0 0
Ground rent from '77 to '89, 12 yrs., 9*l.* 10,	£114 0 0		
Money he owed on a bond ab't -	320 0 0		
Add rent rece'd - - -	13 0 0		
		447	0 0
		£6,465	0 0
Allowed - -	£1,184 0 0 strg.		
The commissioners told by himself his estate before the revolt, he believed, would have sold at public sale at - - - - - - -		£2,560	0 0
Add rents - - - - -		1,912	0 0
		£4,472	0 0

237.

Short narrative of facts.

Short narrative of facts.

Mr. Aspden intended to have gone to England in a ship of his that sailed the 10th of Septr., 1775. Was prevented, from the distress the circle of his friends were thrown into, from the carting about the streets Doctor Kearsley and Mr. Counseller Hunt, and the appearance it had of a desertion of them at that lamentable period, notwithstanding he was in readyness, and stores provided, for the purpose of going.

He was also prevented going to England in the Swallow, Brittish packett, from New York, on board which he went with a written permission for that purpose, the latter end of March or beginning of April, 1776, and had stores sent down for himself and other passengers going, thro' his application to the committee and commanding officer, and

should have gone had not Governor Tryon required an oath that he had before given up, and about which he went to New York and got the mayor, Mr. Mathews, to go down and speak to him respecting, who was then on board a ship in the Narrows, where he had retired under the protection of the Asia man-of-war, which he did, and returned with an answer, that he would decline requireing it of him and Mr. John Warder, and that we should go, as agreed to on the terms first proposed on comeing on board, of suffering our letters to be enclosed to the Secretary of State in England, &c., which was afterwards went from on the part of Governor Tryon, the passengers sent for just on the eve of the packet's sailing, and the oath required, much to his astonishment. It was refused by Mr. Aspden, another, (Mr. Warder,) except that part of it which went to bear true allegiance, who were natives of America; first, because he had broke his word; and 2dly, from their conceiving he had no right to require it; and returned on shore on or about the 2d, 3d, or 4th of May, after being a month or more on board the packet, and came back to Philadelphia, where he found his house let, his servants discharged, agreeable to directions to his half-brother, James Hartley, by letter from on board the packet, when he found he had full leave to go. His residence in America after that he consider'd merely transient, waiting only an opportunity to leave it. This he flatter'd himself he should, in the Fowey man of war, with Governor Eden, from Anapolis, where went with an introductory letter to him, from a friend, for that purpose; urged by the pressure of large concerns in England, which had center'd there, under the pains of the prohibitory act, and other compulsive considerations, but was disappointed, from the truce being broke, under which she came up, the second day after she arrived.

He finally embark'd from the port of Philadelphia in the schooner Bentham, Robert White, mast'er, bound to Corunna, in Spain, and went on board at New Castle on the 19th or 20th of Septemb'r, 1776, with two other passengers, under the protection of that clause in the prohibitory act, which enters the mariners, taken on board American vessells, on the books of the King's ship that takes them, and sets the passengers and capt'n at liberty, on shore, at the first port in the King's dominions she arrives at. Haveing done no act to forfeit his allegiance, and haveing lawfull business in England, where he arrived on or about the 2d Decem. following, and there remain'd till 10th June, 1785, when he embark'd again at Falmouth for America, except an excursion for ab't two months in 1778, to Flanders, Germany, and Holland.

Mr. Aspden apprehends his attainder, (if in force,) may be reversed for the following causes:

First, for error, as he was not liable to be call'd upon, haveing never done the act that gave the council power to require parties to render themselves, &c., to wit, join'd the Brittish army.

2dly. That he was born a Brittish subject, and always liv'd one, haveing left America, and made his election, previous to the new

Government being either organized or establish'd; and therefore could not lawfully nor justly be call'd upon to take his trial as a traitor, under the circumstances he left America, and oweing allegiance, as he did, to another State.

3dly. That his attainder was under an act operateing non est post facto, and therefore repugnant to the constitution, State and Federal, the divine law of Scripture, and the principles of common justice.

4thly. Independent of the foregoing, he was in duress in England from the state of his affairs, and cannot now, he believes, be absent long on the same account. And as further evidence of the truth of the first part of this article, and also that of the second, he adds, that he was the sole owner of the ship Cumberland, when he was call'd upon to take his tryal, and had been for several years before; upon the purchase of which, or rather reconveyance, he took out a register for her of the collector of the port of Bristol, which could only be granted him, being a subject of Great Britain. This ship was formerly the Rebecca, belonging to him, out of the port of Philada., built by Benj. Eyre, and sent to England in compliance with the prohibitory act, under the pains thereof.

N. B. His going out to learn the exercise, a short time in the summer of 1775, with the militia of the ward in which he lived, was not voluntary, but done to avoid the resentment of the populace being directed again him, (a young man that could make no admissible excuse,) at the time the country was thrown into great heats and disorder, from the accounts of the Lexington and Bunker Hill actions, and resolves of the convention and committees to arm the inhabitants, &c. Withdrawing from the company he went out with as soon as he could, telling them at the time on the ground openly, that such were his engagements that he must decline going out with them any more; and afterwards, when the ward association paper was bro't to him to sign, refused to sign it.

Act declaring what shall be treason, pass'd Feb'y 11, 1777.

"That all and every person and persons, now inhabiting, resideing or sojourning within the limits of the State of Pensylvania, except prisoners of war, or whoever shall come, &c., do owe and shall pay allegiance, &c."

An act for the attainder of divers traitors, being all subjects and inhabitants of the State of Pensylva., to render themselves on or before the 20th of Aprill, and take their legal tryal, or forfeit, for haveing join'd the British army, &c. Further enacting, 'that all and every person and persons, being subjects or inhabitants of this State, or those who have real estates in the commonwealth, (being subjects, it is presumed, is the meaning of the act, or otherwise an absurdity and a contradiction in terms, and facts will follow,) who now do adhere to, and knowingly and willingly aid and assist the enemies of this State or the

United States of America, by haveing join'd their armies within this State or elsewhere, or who hereafter shall do the same, and whom the executive council, by their proclamation, shall require by name to render themselves on a certain day, to take their legal tryals, for such their treasons, &c. In case of not appearing, to stand and be attainted of high treason. (Act pass'd 6th March, 1778.)

Quere—Can a person, not a subject, be lawfully tried for treason? Can a man serve two masters?

Supplement to this act empowers the executive council to sell the estates of traitors, duly forfeited. Claims on estates to be made within six months. If any attainder reversed or made void for error or for any cause whatever, the same not to injure bona fide purchasers. And in such case the party to apply to the legislature for indemnification. Purchasers evicted by a judgment of the court of common pleas or supreme court, to be indemnified out of the treasury.

238.

Memorandum, in handwriting of Matthias Aspden, on a card.

An American gentl'n, formerly of Philad'a, merch't, of wh'ch a native, who not only believed the insurg'ts w'd be reduced, but obey'd the law as requir'd, in sending his vessells, laden on his own acc't, agreeable thereto, (not a time for others to do it,) which broke up his establishm't and rooted him out of the country, not being able to draw legally for capital again aft'r 1 Jan'y, 1776, or even a part for support, wh'ch compell'd him to leave America that year and come to England, greviously suffering thereby.

At issue with the King on these facts, in a claim on the State, with the Chancellor for £47,000 sterl'g and upwards, and will prove it to be just and well founded.

239.

Memorial of Matthias Aspden to the House of Representatives.

To the honorable the House of Representatives:

The memorial of Matthias Aspden, a subject of Great Brittain, sheweth—

That your memorialist was possess'd of a house, wharf, and warehouse thereon situated, in Water street, in the city of Philadelphia, and to a plantation in Newtown township, county of Chester, left him under the will of his father, deceased, August, 1765; that your memorialist, being opposed to the separation of the colonies from Great Britain, from a true regard to the welfare of the same, and on what he conceived to be good grounds, was early led to make his election, and finally embark'd for England by the way of Spain, in the month of September, 1776, and there continued during the war, and for several years after; that your memorialist, when beyond sea in England, and under alle-

giance to another State, was requir'd, he believes, by proclamati., bearing date July, 1776, to render himself on or before the first of Aprill following to take his legal tryal for having aided and abetted the enemies of that State (Pensylvania) and the United States, under the pains and penalties of high treason; that not rendering himself as required, for the reason mentioned, (and he may here observe if his case had been otherwise,) from the duress he was in from the state of his affairs in England, had the estate here described seized by the commissioners for forfeited estates, and appropriated to the use of State as the forfeited estate of an attainted traitor, when, in fact, your memorialist could be none, and of course could not forfeit as a traitor; and that, according to the laws of the State of Pensylvania, already decided in the adjudged cases of Chapm'n and Gordon in the supreme courts of the same, from his having left America previous to the revival of the laws under the old government in Feb'y, 1777, and organization and establishment of the new one in the month of March following, and on that account deem'd and considered by them a Brittish subject, and which he believes his not knowing untill within these few days to have been the cause of great greviance to him.

Your memorialist, therefore, prays that your honorable House will be pleased to take the opinion of the judges on his case, and grant him that relief in the premises he may be entitled to.

And your memorialist shall forever, &c.

It may be queried, wether proceedings by ejectment would not be recording an infraction (admitting there could be no forfeiture) of the treaty by a judgement of court.

Agreement for the issue of a duplicate commission to London.

Afterwards, to wit, on the sixteenth day of June, in the year of our Lord one thousand eight hundred and thirty-eight, an agreement of counsel is presented; which agreement, being read and filed, is in the words and of the tenor following, to wit:

Whereas Messrs. Richard Willis and Christopher Willis, who were named as commissioners on the part of John Aspden, of Lancashire, a party complainant in the above cause, in a certain commission issued to London, on the day of A. D., 1837, have declined to execute the said commission, it is agreed that William Henry Smith, Alfred King, and William Loadenall, of London, solicitors, or any one or more of them, be substituted in their room as commissioners, on the part of the said John Aspden, of Lancashire: and it is further agreed, that a duplicate commission be sent to the commissioners named on the part of Janet Jones and Mary Poole, and John A. Brown, also parties complainants in the above case; and that the commissioners of either party be authorized to execute the said commission, on twenty days notice to the commissioners of the other party.

J. R. INGERSOLL,
For HENRY NIXON.

JAMES M. BROWN,
WILLIAM RAWLE,
For JOHN ASPDEN,
of Lancashire.
JAMES S. SMITH,
For J. JONES & M. POOLE.
HENRY J. WILLIAMS,
For J. A. BROWN,
Adm'r for John Aspden.

Whereupon, on motion of Mr. Rawle, it is ordered by the court here that a duplicate commission to London do issue according to said agreement.

Duplicate commission to England.

Afterwards, to wit, on the twenty-ninth day of May, in the year of our Lord one thousand eight hundred and forty, the duplicate commission to England is presented, opened in open court, and ordered to be filed; which commission, depositions, and exhibits, accompanying therewith, are in the words and of the tenor following, to wit:

In the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit. Of April sess., 1828.

Samuel Packer, a citizen of the State of New Jersey,
vs.
Henry Nixon, esq., a citizen of the State of Pennsylvania, executor of the testament and last will of Matthias Aspden, esq., late a citizen of the same State.
} No. 1.—In equity.

The President of the United States, to William Henry Smith, Alfred King, and William Loadenall, of London, solicitors, commissioners named by and on behalf of John Aspden, of Lancashire; Henry Willis and Willis, of the firm of Willis, Watson, Bowers, and Willis, attorneys or solicitors, London, named by and on behalf of the respondents; Nathaniel Milne and William Cowburn, of London, named by and on behalf of Janet Jones and Mary Poole, and of John A. Brown, administrator of John Aspden, formerly of London.

Know ye, that in confidence of your prudence and integrity, we have given unto you, and by these presents do give unto you, or any three or more of you, being one or more of each nomination, full power and authority, in pursuance of a rule lately made in the circuit court of the United States, in and for the eastern district of Pennsylvania, in the third circuit, in a certain action in equity therein depend-

ing, wherein the said Samuel Packer and others are complainants, and the said Henry Nixon, executor of Matthias Aspden, deceased, and others, are respondents, to call before you at a certain day and place by you for that purpose to be appointed, all and every person and persons who may be named to you by the said parties, or either of them, as witnesses in the said action, and then and there to examine them, on their respective oaths and affirmations, on certain interrogatories hereunto annexed, touching the premises, and to reduce their testimony to writing; and when you shall have so done, you are to send the same to the said circuit court, closed up, and under your seals, plainly and distinctly set, together with this writ.

Witness the honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Philadelphia, this twenty-third day of June, A. D. 1838, and in the sixty-second year of the independence of the said United States.

[Seal of the circuit court Penn'a.]

FRA'S HOPKINSON,
Clerk circuit court.

The execution of this commission appears in a certain schedule hereunto annexed.

W. COWBURN,
ALFRED KING.

(For the interrogatories and cross interrogatories accompanying this commission, vide pages 269, 270, 271, 272, and 273; [printed record 338, 339, 340, 341, 342, 343, 344, and 345.]

Depositions of witnesses produced, sworn, and examined on the sixteenth day of April, in the year of our Lord one thousand eight hundred and forty, at the house of the incorporated Law society, in Chancery Lane, London, in that part of the united kingdom of Great Britain and Ireland, called England, by virtue of a commission issuing from the circuit court of the United States in the third circuit, to us, William Cowburn and Alfred King, and others, directed; and also in pursuance of an agreement or order, made in the cause Packer vs. Nixon, for the examination of witnesses in a certain cause depending in the said court, wherein Samuel Packer is plaintiff, and Henry Nixon, executor of Matthias Aspden, is defendant.

James Robinett Scruby, clerk in Messieurs Milne, Parry, Milne, and Morris, of the Inner Temple, London, solicitors, aged thirty years, being produced, sworn, and examined, on behalf of the complainants, Janet Jones and Mary Poole, of London, admitted as parties in the above cause, under the mandate of the Supreme Court of the United States, deposeth as follows:

To the first interrogatory. I do not know any of the parties, complainants or defendant, in the title to the interrogatories, or any or either of them. I did not know the testator, Matthias Aspden, or John Aspden, of London, deceased; and I do not know his daughters, the said Janet Jones and Mary Poole.

To the second interrogatory. I have looked at the several paper

writings produced on behalf of the said complainants, Janet Jones and Mary Poole, marked respectively with the letters A, B, C, D, E, F, G, H, I, K, L, (no paper writing being produced in answer to the interrogatory proposed on behalf of the above named defendant under this commission,) but further to this interrogatory this deponent cannot depose.

To the third interrogatory this deponent cannot depose.

To the fourth interrogatory this deponent cannot depose.

To the fifth interrogatory this deponent cannot depose.

To the sixth interrogatory this deponent cannot depose.

To the seventh interrogatory this deponent cannot depose.

To the eighth interrogatory this deponent cannot depose.

To the ninth interrogatory this deponent cannot depose.

To the tenth interrogatory. The paper writings produced on the part of the complainants, Janet Jones and Mary Poole, before the commissioners, (no paper writings being produced on the part of the defendant, as aforesaid,) and mentioned, in the answer to the interrogatory in chief, as being marked with the letters A, B, C, D, E, F, G, H, I, K, and L, are whole, entire, complete, and perfect copies of all the records of proceedings in the high court of chancery, from which they are respectively taken in the original and revived suit therein referred to, this deponent having severally examined the said paper writings with the original records. I have inquired of the proper officer of the court of chancery for other records, or matters recorded, or in the nature of records, in the said court in the said suit, but I have not found or discovered any such, nor do I believe any such exist. I have not made any examination or inquiry for records, or matters recorded in any other court.

To the eleventh interrogatory the deponent cannot depose.

W. COWBURN, JAMES R. SCRUBY.
ALFRED KING.

SAMUEL FREDERICK MILFORD, of Lincoln's inn, in the county of Middlesex, esquire, barrister at law, aged forty-two years, being produced, sworn, and examined, on behalf of the complainants, Janet Jones and Mary Poole, of London, deposeth as follows:

To the first interrogatory. I do not know any of the parties, complainants or defendant, in the title to the interrogatories, or any or either of them. I did not know the testator, Matthias Aspden, or John Aspden, of London, deceased; and I do not know his daughters, the said Janet Jones and Mary Poole.

To the second interrogatory. I have looked at the several paper writings, produced on behalf of the said complainants, Janet Jones and Mary Poole, marked respectively with the letters A, B, C, D, E, F, G, H, I, K, and L, (no paper writings being produced in answer to the interrogatories proposed on behalf of the above named defendant, under this commission,) in the original and revived suit in the high cour tof chancery, in such paper writings referred to, wherein John Aspden is plaintiff, Henry Nixon, Esther Hartley, Samuel Williams, John Stirl-

ing, the governor and company of the Bank of England, the honorable East India company, the honorable South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, are defendants, by original bill; and wherein Jennet (otherwise Jenet) Jones, and Thomas Poole and Mary, his wife, plaintiffs; and the *the* said Henry Nixon, Esther Hartley, Samuel Williams, John Stirling, the governor and company of the Bank of England, the honorable East India company, the honorable South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, are defendants, by bill of revivor, there was a discussion, at the hearing of the cause before the Vice Chancellor of the high court of chancery, whether a reference should be made to one of the masters of the court, to ascertain who was the heir-at-law of the testator, Matthias Aspden, in the pleadings of the cause named, which was the only point urged on behalf of the plaintiffs; when his honor, the Vice Chancellor, decided, that the said bill should be dismissed with costs, stating, as the ground for his judgment, that no evidence had been gone into to prove who was the heir-at-law on behalf of the plaintiffs, and the bill was dismissed accordingly; and his honor the Vice Chancellor did not determine or decide upon the pedigree of John Aspden, of London, deceased, or of his daughters, Janet Jones and Mary Poole, or any or either of them, or upon their connexion with relationship to the said Matthias Aspden, the testator above named, or upon the merits of the claims set forth in their original bill and bill of revivor, or any or either of them, or upon the proper construction of the will of the said Matthias Aspden, the testator, or who was the person or persons designated therein as his heir-at-law.

To the third interrogatory. No evidence was given in the said suit, in the high court of chancery, to which the paper writings above referred to relate, to the knowledge or belief of me, the deponent, nor were any depositions taken or prepared in the said suit, to the knowledge or belief of me, the deponent; nor was any evidence given, proving or intending to prove the pedigree of the said John Aspden, of London, deceased, or that of his daughters, Janet Jones and Mary Poole, or their relationship to the said testator, Matthias Aspden, to the knowledge or belief of me, the deponent.

To the fourth interrogatory. To the best of the knowledge and belief of me, the deponent, no depositions or evidence was read or given to the said high court of chancery in the said suit in the said paper writings produced, mentioned, and referred to.

To the fifth interrogatory. That the claims of the said John Aspden, of London, deceased, as stated in the paper writings aforesaid, have not been gone into in the said court of chancery, save as to the discussion before deposed to by me, the deponent, which took place at the hearing of the cause; and that the decision of his honor, the Vice Chancellor, at the hearing of the said cause, as before deposed to, was not made on any preliminary objection, but was a final decision for want of evidence in support of the plaintiff's claim.

To the sixth interrogatory the deponent cannot depose.

To the seventh interrogatory the deponent cannot depose.

To the eighth interrogatory the reason why no evidence was given to the said court of chancery to support the claims stated in the original bill and bill of revivor was, to my belief, that the solicitor of the said plaintiffs was not in sufficient funds to procure evidence of the pedigree to support the said claims, I, the deponent, having been informed, and which information I verily believe to be true, that the said solicitor of the said plaintiffs shortly afterwards died in insolvent circumstances, and without paying me, the deponent, the fees upon the briefs which I held as counsel for the said plaintiffs.

To the ninth interrogatory. The cause and ground of the dismissal of the original bill and bill of revivor, in the said paper writings mentioned, and referred to by his honor the Vice Chancellor, was, that no evidence had been gone into to prove who was the heir-at-law, as before deposed to, and such dismissal was not agreed upon the determination of the rights of the parties complainant and defendants therein, or upon the rules of practice adopted by the said court of chancery, nor was such dismissal made by the said court of chancery in order that the funds and property in question should be remitted to America, to be distributed under the direction of some competent tribunal there, but entirely because the parties complainant had not gone into any evidence to support their claims.

To the tenth interrogatory the deponent cannot depose.

To the eleventh interrogatory. I was one of the counsel for the plaintiffs in the original and revived suit in the court of chancery mentioned in my answers to the preceding interrogatories, and I advised the said complainant's solicitor, who was a Mr. Gregson, that the suit would be dismissed, if he did not prove the plaintiff to be the heir-at-law of the testator, Mr. Aspden; but the said Mr. Gregson (as I believe on account of his want of funds) did not follow my advice, but expressed his hopes and belief, that the Vice Chancellor would refer it to one of the masters of the court to ascertain who was the heir-at-law of the said testator; that very shortly before the cause was called on to be heard before the Vice Chancellor, the counsel who was employed with me (and who, from seeing the endorsement on my brief, now produced and shewn to me, marked with the letter Z, I believe to have been Sir Edward Sugden) also advised the said Mr. Gregson not to appear when the cause should be called on, but to allow the same to be struck out of the paper; but the advice was disregarded. I understand the law and practice of the court of chancery to be, that when a cause is dismissed for want of prosecution, or is dismissed when called on in consequence of the plaintiffs not appearing, that it is competent for the plaintiff to file another bill for the same matter; but when it is heard, and a decree made on the hearing, dismissing the bill, that decree may be pleaded to a fresh suit for the same purpose. I have read the words and figures, "Bill dismissed with costs, S. F. Milford, July 17th, 1830," written on the said paper writing, marked Z, produced to me

as aforesaid ; they are my writing, and I have no doubt that the said paper writing, marked Z, was the brief I held on the hearing of the cause before the Vice Chancellor.

SAM'L FRED'K MILFORD.

W. COWBURN,
ALFRED KING.

Depositions of witnesses produced, sworn, and examined on the eighteenth day of April, in the year of our Lord one thousand eight hundred and forty, at the house of the Incorporated Law society, in Chancery Lane, London, in that part of the united kingdom of Great Britain and Ireland called England, by virtue of a commission issuing from the circuit court of the United States, in the third circuit, to us, William Cowburn and Alfred King, and others, directed ; and also in pursuance of an agreement or order made in the cause Packer vs. Nixon, for the examination of witnesses in a certain cause depending in the said court, wherein Samuel Packer is plaintiff, and Henry Nixon, executor of Matthias Aspden, is defendant.

W. COWBURN,
ALFRED KING.

THOMAS HAND, clerk to Messieurs Milne, Parry, Milne, and Morris, of the Inner Temple, London, solicitors, aged twenty years, being produced, sworn, and examined on behalf of the complainants, Janet Jones and Mary Poole, of London, admitted as parties in the above cause, under the mandate of the Supreme Court of the United States, deposeth as follows :

To the first interrogatory. I do not know the parties, complainants or defendant, in the title to the interrogatories named, or any or either of them. I did not know the testator, Matthias Aspden, or the intestate, John Aspden, of London, deceased. I do not know his daughters, the said Janet Jones and Mary Poole.

To the second interrogatory. I have looked at the several paper writings produced on behalf of the said complainants, Janet Jones and Mary Poole, marked respectively with the letters M, N, O, P, Q, (no paper writings being produced in answer to the interrogatories proposed of the above named defendant under this commission;) but further to this interrogatory this deponent cannot depose.

To the third interrogatory this deponent cannot depose.

To the fourth interrogatory this deponent cannot depose.

To the fifth interrogatory this deponent cannot depose.

To the sixth interrogatory this deponent cannot depose.

To the seventh interrogatory this deponent cannot depose.

To the eighth interrogatory this deponent cannot depose.

To the ninth interrogatory this deponent cannot depose, having no knowledge of the matters inquired after, save what he has derived from reading the several paper writings by him before deposed to.

To the tenth interrogatory. The paper writings produced on the part of the complainants, Janet Jones and Mary Poole, before the com-

missioners, (no paper writings being produced on the part of the defendant as aforesaid,) and mentioned in the answer to the interrogatory in chief as being marked with the letters M, N, O, P, Q, are whole, entire, complete, and perfect copies of all the records of proceedings in the court of exchequer from which they are taken in the suit therein referred to; I, the deponent, having severally examined the said paper writings with the original records; I have inquired of the proper officer of the court of exchequer for other records or matters recorded in the said court of exchequer in the said suit, but I have not found or discovered any such, nor do I believe any such exist; I have not made any examination or inquiry for records or matters recorded in any other court.

To the eleventh interrogatory the deponent cannot depose.

THOMAS HAND.

W. COWBURN,
ALFRED KING.

MICHAEL DENNEY, of No. 5, Cook's row, Saint Pancras, Old road, in the county of Middlesex, solicitor's clerk, aged about twenty-seven years, being produced, sworn, and examined on behalf of the complainants, Janet Jones and Mary Poole, of London, admitted as parties in the above cause, under the mandate of the Supreme Court of the United States, deposeth as follows:

To the first interrogatory. I do not know the parties, complainants or defendant, in the title to the interrogatories, or any or either of them. I did not know the testator, Matthias Aspden, or John Aspden, of London, deceased. I do know his daughters, Janet Jones and Mary Poole, having seen them about ten years ago.

To the second interrogatory the deponent cannot depose.

To the third interrogatory the deponent cannot depose.

To the fourth interrogatory the deponent cannot depose.

To the fifth interrogatory the deponent cannot depose.

To the sixth interrogatory the deponent cannot depose.

To the seventh interrogatory the deponent cannot *cannot* depose.

To the eighth interrogatory the deponent cannot depose.

To the ninth interrogatory the deponent cannot depose.

To the tenth interrogatory the deponent cannot depose.

To the eleventh interrogatory. I have looked at the paper writing marked Z, produced to me at the time of this my examination, the greater part of which is in my handwriting. I was a clerk in the employ of Mr. Gregson, of the Inner Temple, London, the solicitor for the plaintiffs named in the said paper writing in July, one thousand eight hundred and thirty. Mr. Gregson is dead. Prior to the cause named in the said paper writing coming on for hearing, a negotiation was carried on by the said Mr. Gregson as the solicitor for and on behalf of the plaintiffs in the revived suit with a Mr. Dugdale, a gentleman residing in Lancashire, for an advance of money to the extent of one thousand pounds, as I now best recollect, to enable the said Mr. Gregson to procure the necessary evidence to establish the pedigree of the plaintiffs

named in the revived suit mentioned in the said paper writing, but Mr. Dugdale having required security for repayment, and the plaintiffs being unable to give security, the negotiation went off; and the plaintiffs being very poor, and not having the means of procuring the necessary evidence, the cause was heard without any evidence being gone into in support of the pedigree, and was dismissed with costs, as I was informed by the said Mr. Gregson; and which information I believe to be true, and as I have now ascertained to be the fact, by the endorsement of Mr. Milford, one of the plaintiff's counsel, on the paper writing produced to me, and which I have before deposed to.

M. DENNEY.

W. COWBURN,
ALFRED KING.

ROBERT JAMES KENTISH, of No. 3, Albion Cottages, Havil street, Camberwell, in the county of Surrey, clerk to a solicitor, aged thirty-seven years, being produced, sworn, and examined on behalf of the complainants, Janet Jones and Mary Poole, of London, admitted as parties in the above cause, under the mandate of the Supreme Court of the United States, deposeth as follows:

To the first interrogatory. I do not know the parties complainants or defendant in the title to the interrogatories, or any or either of them; I did not know the testator, Matthias Aspden, or John Aspden, of London, deceased; I do know his daughters, the said Janet Jones and Mary Poole, and knew them between the years 1828 and 1830, having seen them at that period.

To the second interrogatory the deponent cannot depose.

To the third interrogatory the deponent cannot depose.

To the fourth interrogatory the deponent cannot depose.

To the fifth interrogatory the deponent cannot depose.

To the sixth interrogatory the deponent cannot depose.

To the seventh interrogatory the deponent cannot depose.

To the eighth interrogatory the deponent cannot depose.

To the ninth interrogatory the deponent cannot depose.

To the tenth interrogatory the deponent cannot depose.

To the eleventh interrogatory. I have looked at the paper writing marked Z, produced to me at the time of this my examination; I was a clerk in the employ of Mr. Gregson, of the Inner Temple, London, the solicitor for the plaintiffs in the revived suit named in the said paper writing during a great [part] of the time the said suit was in progress. Mr. Gregson is since dead. Janet Jones and Mary Poole, the plaintiffs in the revived suit, were in limited circumstances, so as not to enable them to make sufficient advances to the said Mr. Gregson for carrying on the suit in the said paper writing referred to, and I remember that a Mr. Dugdale, a gentleman residing in Lancashire, made some advances to Mr. Gregson to carry on the suit; but afterwards declined (though under what particular circumstances I cannot now recollect) to make any further advances. After this, I saw the plaintiffs, Janet

Jones and Mary Poole, at their residence in Old street, and communicated to them, at the request of Mr. Gregson, that Mr. Dugdale had declined to make further advances; that Mr. Gregson himself was unable to make advances, and that if he was not put in funds the suit must fall to the ground. To my knowledge, no advances were subsequently made either by Mr. Dugdale or the plaintiffs, and I well recollect that the cause was afterwards heard, as I was informed and believe, and dismissed with costs, no evidence whatever having been gone into in support of the plaintiffs' claim; and I have also ascertained the fact of the hearing of the said cause, and its dismissal, by the endorsement on the said paper writing before deposed to, made by Mr. Milford, one of the counsel for the plaintiffs on the hearing of the said cause.

R. J. KENTISH.

W. COWBURN,
ALFRED KING.

This is the paper exhibit, or document, referred to by James Robinett Scruby, in his examination, as the paper marked A.

W. COWBURN,
ALFRED KING.

This is the paper exhibit, or document, referred to by Samuel Frederick Milford, in his examination, as the paper marked A.

SAM'L FRED'K MILFORD,
W. COWBURN,
ALFRED KING.

30th July, 1825.
VESEY, by TURTON.

To the right honorable John, Earl of Eldon, lord high chancellor of Great Britain.

Humbly complaining sheweth unto your lordship, your orator John Aspden, of Old street, in the parish of Saint Luke, in the city of London, gentleman, the heir-at-law of Matthias Aspden, (the testator hereinafter named,) that the said Matthias Aspden, of King street, Holborn, London, deceased, was formerly a merchant in Philadelphia, in North America, but quitted that place when the war broke out between this country and America, in the year 1776, and came to, and resided in, this country until the time of his death, hereinafter mentioned, except he went to America after the conclusion of the said war, and at one or two different times, but only to transact or settle his affairs there, and always returned to this country as to his home after such affairs were settled; and the said Matthias Aspden, during his residence in this country as the place of his domicil, invested large sums of money in the purchase of stock and bank annuities in the funds of this country, and also in the funds of the East India and South Sea companies; and the said Matthias Aspden departed this life in the month of August, 1824, being then resident in King street, Holborn aforesaid, and domiciled in this country. And your orator further sheweth unto your lordship, that the said Matthias Aspden in his lifetime, and at the time of

making his will hereinafter mentioned, was possessed of very considerable property, and in particular of considerable property in the English and American funds, and of various other kinds of personal estate and effects to a very considerable amount in the whole; and in his lifetime he duly made and executed his last will and testament in writing, with three codicils thereto, bearing date the 6th day of December, 1791, and which are in the words and figures *of* following, videlicet:

"These are to certify, that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and personal, to my heir-at-law, first paying all my just debts and funeral expenses, and the following legacies: First, to each of the children of my half-brother, Benjamin Hartley, deceased, that may be alive at my death, the sum of £100 to each, Pennsylvania currency; and to my half-sister, Bersheba Zare, wife of Elnathan Zare, the sum of £400, Pennsylvania currency, both the above living, or did live, near Haddonfield; and to my half-brother, Roger Hartley, living at present in Lancaster county, the sum of £300 of the like currency.

Witness my hand, this 6th day of Dec'r, 1791. Matthias Aspden, Philadelphia. MATTHIAS ASPDEN."

"Least any question should arise about the legitimacy of my birth, it is my will that my estate, real and personal, should go to the party who would be my lawful heir in case there might arise no doubt on that head. It is firmly believed by, and from, the best information, that my birth was after marriage.

PHILADELPHIA, 6*th December*, 1791.

I do further give £100, currency, to each of the children of my deceased half-sister, Ann Hinchman, that may be living at my death.

DECEMBER 6*th*, 1791.

The last will of Matthias Aspden.

I do hereby appoint my friends, Mr. George Roberts and Mr. Abram Lidden, with the president of the old bank at the time being, to be my executors to this my last will. MATTHIAS ASPDEN.

NOTE.—My property in England is as follows: £12,500 in the four per cent. stock, £3,000 in the five per cent. stock, £1,800 in the three per cent. stock," as in and by the probate of the said will when the same shall be produced to this honorable court, reference being thereunto had, will appear.

And your orator further sheweth unto your lordship, that the said testator afterwards departed this life on the 9th day of August, 1824, without having revoked or altered his said will, and without issue, he having never been married. And your orator further sheweth unto your lordship, that the said George Roberts and Abram Lidden both died in the lifetime of the said testator, and that the president of the

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Bank of Philadelphia, at the time of the death of the testator, was Henry Nixon, esq'r; and the said testator, by the expressions in the third codicil to his said will, "president of the old bank," meant the President of the Bank of Philadelphia; and the said Henry Nixon, soon after the death of the said testator, (viz., on the 9th of November last,) proved the said will in the proper ecclesiastical court at Philadelphia, and has lately also proved the same will in the proper ecclesiastical court in this country, and has obtained probate thereof from the prerogative court of the Archbishop of Canterbury, (bearing date the 27th of July now instant,) and thereby become the legal personal representative of the said testator; and the said Henry Nixon hath possessed himself of the personal estate and effects of the said testator in America, and elsewhere, except in this country, and which are much more than sufficient to pay and satisfy all the funeral and testamentary expenses, debts, and legacies of the said testator, and also to leave a very considerable surplus. And your orator further sheweth unto your lordship, that the said testator was, at the time of his death, (among other descriptions of property,) possessed of property in the English funds, that is to say: £4,000 bank stock, £10,000 three per cent. consolidated bank annuities, £12,500 reduced three and a half per cent. bank annuities, and £3,500 new four per cent. bank annuities; and such stock and annuities are still standing in the books of the governor and company of the Bank of England in the name of the said testator, with an arrear of dividends thereon respectively; and the said testator also was possessed of East India stock, and also of South Sea stock, to a considerable amount, that is to say: £3,000 East India stock, and £5,000 South Sea stock; and the said testator died also possessed of other personal estate and effects, of various descriptions, to a large amount in the whole; and particularly, he had money in the hands of Messrs. Hoare, of Fleet street, London, his bankers, to the amount of £790 3 5, and also securities and other effects. And your orator further sheweth unto your lordship, that the said testator left your orator his heir-at-law; and, as evidence thereof, your orator sheweth that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of both the said testator and your orator, and died many years ago, (being before the birth of your orator, who is now aged 85 years,) having had issue 12 children, the eldest of whom was John Aspden, who died and was buried at Deptford, in Kent, in the year 1754, leaving issue only one son, vid't, Andrew Aspden, who died, and was also buried at Deptford, in the year 1771, leaving issue your orator, his only child and heir-at-law. And your orator further sheweth unto your lordship, that the name of the father of the said testator was Matthias Aspden, who was the third son of the said Thomas Aspden, the common ancestor; and that the said Matthias Aspden, the father, being resident in America, married there an American woman, whose christian name was Rebecca, and had issue by her some time after the said marriage an only child, vid't, the said testator; and the said Matthias Aspden, the father, died in or about the year 1765, in Philadelphia

aforesaid, leaving the said testator his only lawful issue him surviving; so that, upon the failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, your orator, as the grandson and heir-at-law of the said John Aspden, who was the eldest brother of the said Matthias Aspden, the testator, became, on the death of the said testator, his heir-at-law. And your orator further sheweth unto your lordship, that he is advised and submits, that, as such heir of the said testator, he is entitled, under the aforesaid will of the said testator, to the residue of the personal estate and effects of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies, and which residue amounts to a very large sum. And your orator further sheweth unto your lordship, that the said Henry Nixon (although he has proved the said will in this country) always has been, and still is, resident at Philadelphia aforesaid, in North America, and he has signed and sent over to Samuel Williams and John Sterling, both of the city of London, merchants, a general power of attorney to collect, get in, and receive all the personal estate and effects of the said testator in this country, with a direction to them to remit to him, the said Henry Nixon, in America, all such personal estate and effects of the said testator, when and as soon as they are received by them, the said Samuel Williams and John Sterling; and the said Henry Nixon threatens and intends to misapply such personal estate and effects, and instead of accounting with and paying to your orator the residue of the said testator's personal estate and effects, (as the residuary legatee under the said will,) to pay and apply the *the* same in a manner which is in direct opposition to the said will. And your orator further sheweth unto your lordship that he has caused notice of his aforesaid rights under said will to be given to the said Samuel Williams and John Sterling, and has requested them not to receive or remit such personal estate and effects of the said testator to the said Henry Nixon; but the said Samuel Williams and John Sterling threaten and intend, under the said power of attorney, to sell out the said bank stock and bank annuities, and likewise the said East India stock and the said South Sea stock, and also to receive the money, securities, and effects of, and belonging to, the said testator, at the said Messrs. Hoare, his bankers, and all the other personal estate and effects of the said testator in this country, and to remit the produce of the said stocks and annuities, and what he shall so receive in respect of the other personal estate and effects of the said testator, to the said Henry Nixon; and the said governor and company of the Bank of England, and the East India company, and the South Sea company, intend respectively to permit the aforesaid respective transfers of such respective quantities of stock and annuities to be made by the said Samuel Williams and John Sterling, unless they are prevented from so doing by the order of this honorable court, although they have been respectively applied to by your orator not to permit such respective transfers; and the said Messrs. Hoare likewise intend to pay over, and part with, to the said Samuel Williams and John Sterling,

the money, securities, and effects of the said testator in their hands, unless restrained by the order of this honorable court from so doing. And your orator further sheweth unto your lordship that it is alleged by the said Henry Nixon, (and which your orator believes to be the case,) that there are certain persons in America who claim to be next of kin to the said testator, as being brothers or sisters of his half-blood, or as being descended from them, and in that character claim to be entitled, under the said will of the said testator, to the residue of his personal estate and effects; but your orator further sheweth that (if such be the case) your orator is unable to set forth whether such brother or sisters of the half-blood (if any such) are living or dead, or if dead, whether they have left any children or child, or who are or is their personal representatives or representative. And your orator further sheweth unto your lordship that your orator is advised and humbly submits, that, upon the true construction of the said will of the said testator, the next of kin of the said testator are not entitled under the same will to take the residue of the personal estate and effects of the said testator, but that your orator is entitled to the same, under the said will, as the heir-at-law of the said testator. And your orator further sheweth unto your lordship that, under such circumstances, your orator was in hopes that the said Henry Nixon would have accounted with your orator for the residue of the personal estate of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies; but now, so it is, may it please your lordship, that the said Henry Nixon, combining and confederating with the said defendants, Samuel Williams and John Sterling, and with the said governor and company of the Bank of England, and with the honorable company of merchants trading to the East Indies, and with the honorable company of merchants trading to the South seas, and with the said Messrs. Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and to and with divers other persons at present unknown to your orator, but whose names, when discovered, your orator prays may be herein inserted, with appropriate and proper matter to charge them as parties hereto; and contriving how to injure and oppress your orator in the premises, positively refuses to account with and pay to your orator the residue and effects of the said testator, but threatens and intends to withdraw from this country, by means of his aforesaid agents, the defendants, Samuel Williams and John Sterling, all the personal estate and effects of the said testator in this country, and to apply the same contrary to the said will of the said testator; and your orator further charges and submits to this honorable court, that the said defendants, the governor and company of the Bank of England, and the said East India company, and the said South Sea company, ought to be respectively restrained by the order of this honorable court from permitting any transfer to be made by the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling, of the said respective stock and annuities of the said testator, standing in

his name in their respective books, and that the said defendants, Messrs. Hoare, ought likewise to be restrained from parting with the said money, securities, and effects of the said testator; and also that the said defendants, the governor and company of the Bank of England, should be ordered to transfer the aforesaid bank stock and bank annuities into the names of the accountant general of this honorable court, in trust in this cause; and also that proper directions should be given for the sale of the aforesaid East India stock and South Sea stock of the said testator, and that the money arising therefrom respectively should be invested in the purchase of 3 per cent. consolidated bank annuities, in the name of the said accountant general in trust in this cause; and also that the said defendants, Messrs. Hoare, should be directed to pay the money of the said testator in their hands into court, and that the same should be laid out in like manner; and your orator further charges and submits to this honorable court, that some proper person ought to be appointed by this honorable court to receive and get in all the other outstanding estate and effects of the said testator in this country; all which actings, doings, and pretences of the said confederates are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator in the premises. In consideration whereof, and forasmuch as your orator is remediless in the premises, by the strict rules of the common law, and cannot have adequate relief, except in a court of equity, where matters of this kind are properly cognizable and relievable; to the end, therefore, that (the said Henry Nixon, when he shall come within the jurisdiction of this honorable court) the said Samuel Williams and John Sterling, the said governor and company of the Bank of England, the said East India company, the said South Sea company, and the said Messrs. Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and their confederates, when discovered, may, upon their several and respective oaths, according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, a full, true, and direct and perfect answer make to all and singular the matters aforesaid, and that as fully as if the same were here repeated, and they particularly interrogated thereto; and more especially that the said defendants may, in manner aforesaid, answer and set forth, whether the said testator, Matthias Aspden, was not formerly a merchant in Philadelphia, in North America, or at some and what other part; and whether he did not quit that country at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he did not reside in this country, or in some and what other country, until the time of his death, or until some and what other period, except at the intervals hereinbefore in that behalf mentioned, or at some and what other intervals; and whether, when he went to America, at such intervals, he did not go thither only to transact or settle his affairs in America, or for some and what other purpose; and whether the said testator did not always return to this country, as to his home, after such affairs were settled, or how otherwise; and whether the said testator did not, during such his residence in his country, and the place of his

domicil, invest large, or some and what, sums of money, in the purchase of stock and annuities in the funds of this country, and also in the funds of the East India company, and of the South Sea company, or of some and what other public company or companies, and in some and what other securities; and whether the said testator did not depart this life in the month of August, 1824, or at some and what other time; and whether he was not, at the time of his death, resident in King street, Holborn, London, or at some other place; and whether he was not domiciled in this country at the time of his death; and whether the said testator, Matthias Aspden, was not in his lifetime, and at the time of making his will and codicils, possessed of very considerable property, and particularly whether he was not possessed of considerable and what property in the said English and American funds, or some and which of them, and of various other and what kinds of personal estate and effects, to a very considerable, or some and what, amount in the whole. And whether the said testator did not in his lifetime duly make and execute his last will and testament in writing, and 3 codicils thereto, bearing date the 6th day of December, 1791, or some and what other date. And whether such will and codicils are not in the words and figures, or to the purport and effect, hereinbefore in that behalf mentioned, or in some and what other words and figures, or to some and what other purport and effect; and whether the said testator did not afterwards depart this life at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he ever, and when, in any and what manner, altered or revoked his said will and codicils, or any part thereof; and whether he did not die without any or what issue. And whether he had ever and when been married; and whether the said George Roberts and Abram Liddon did not, both or one, and which of them, die in the lifetime of the said testator; and whether the president of the Bank of Philadelphia aforesaid, at the time of the death of the said testator, was not the said defendant, Henry Nixon; and whether the said testator did not, by the expression in the said third codicil to his said will, "president of the old bank," mean the president of the bank at Philadelphia aforesaid, or how otherwise; and whether the said defendant, Henry Nixon, did soon, and when, after the death of the said testator, duly prove the said will and codicils in the proper court at Philadelphia, in America; and whether he has not also, and when, duly proved the same will and codicils in the proper ecclesiastical court in this country; and whether he has not obtained probate thereof from the prerogative court of Canterbury, and thereby become the legal, personal, representative of the testator; and whether he has not possessed himself of all the personal estate and effects of the said testator, or some and what part thereof in America and elsewhere, except in this country; and whether the same are not much more than sufficient to pay and satisfy all the funeral and testamentary expenses, debts, and legacies, of the said testator; and also to leave a very considerable, or some and what, surplus; and whether the said testator was not, at the time of his death, or at some and

what other time, (among other descriptions of property,) possessed of property in the English funds; and whether such property did not consist of such stock and bank annuities, and to such amount, as is hereinbefore in that behalf mentioned, or of some and what other stock and annuities, or to some and what other amount; and whether the said testator was not also possessed at the time aforesaid, or at some, and what, other time, of East India stock and of South Sea stock, to a considerable and what amount, respectively; and whether such respective quantities of such respective stocks, were not of such respective amounts as is hereinbefore in that behalf mentioned, or of some and what other amount; and whether such respective quantities of such respective stock and annuities, or some and what part thereof, are or is not still standing in the name of the testator, or in the name of some and what other person or persons, in the respective books of the said respective companies, or in the books of one, and which of them; and whether the said testator did not also die possessed of other and what personal estate, to a considerable and what amount in the whole, and particularly whether he had not money to the amount of £790 3s. 5d., in the hands of his bankers, the said Messrs. Hoare, or monies to some other and what amount; and whether the said testator did not leave your orator his heir-at-law; and whether the said Thomas Aspden, of Simondstone aforesaid, was not the common ancestor of the said testator and your orator; and whether the said last named Thomas Aspden did not die at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he had not issue 12 children, or some and what other number of children; and whether the eldest of them was not the aforesaid John Aspden, or some and what other person; and whether the said John Aspden did not die, and was not buried at Deptford aforesaid, or at some and what other place, at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he did not leave issue only one son, that is to say, the said Andrew Aspden, or some and what other issue; and whether the said Andrew Aspden did not die, and was not also buried at Deptford aforesaid, at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he did not leave issue your orator, his only child and heir-at-law, or some and what other child or children, or some and what other person his heir-at-law; and whether the name of the father of said testator was not Matthias Aspden, or some and what other name; and whether the said last named Matthias Aspden was not the 3d, or some and what other, son of the said Thomas Aspden, the common ancestor, or of some and what other person; and whether the said Matthias Aspden, the father, was not resident to America, and did not, while he was there, marry an American woman, and whether the christian name of such American woman was not Rebecca; and whether the said Matthias Aspden, the father, had not issue by her, after the said marriage, an only child, namely, the said testator, or some and what other issue; and whether the said Matthias Aspden, the father, did not die in or about the year 1765, or at some and

what other time, at Philadelphia, in North America, or at some and what other place; and whether he did not leave the said testator his only lawful issue, or any or what other issue him surviving; and whether upon failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, your orator, as heir-at-law of the said John Aspden, the eldest brother of the said Matthias Aspden, the father, or in some or what other way, did not become, on the death of the said testator, his heir-at-law, or who else is the heir-at-law of the said testator; and whether your orator, as such heir-at-law of the said testator, or in some and what other character, is not entitled, under the aforesaid will of the said testator, to the residue of his personal estate and effects, after the payment of his funeral and testamentary expenses, debts, and legacies; and whether such residue does not amount to a very large and what sum; and whether the said Henry Nixon has not always been, and still is, resident at Philadelphia aforesaid, or at some and what other place; and whether he has not, and when, signed and sent over to the said defendants, Samuel Williams and John Sterling, or to some and what other persons or person, a general power of attorney to collect, get in, and receive all the personal estate and effects of the said testator in this country, or to such purport, or to some and what purport, with a direction to them to remit to him, the said Henry Nixon, in America, all such personal estate and effects of the said testator, when, as soon as they are received by them, the said defendants, Samuel Williams and John Sterling, or to such purport and effect, or to some and what other purport and effect; and whether the said defendant, Henry Nixon, does not threaten and intend to misapply such personal estate and effects in America, and instead of accounting with and paying to your orator the residue of the said testator's personal estate and effects, as the residuary legatee under the said will, to pay and apply the same in a manner which is in direct opposition to the said will, or how otherwise; and whether your orator has not caused notice of his aforesaid rights under the said will to be given to the said Sam'l Williams and John Sterling, and has not requested them not to receive or remit such personal estate and effects of the said testator to the said Henry Nixon, or to such effect, or to some and what other effect; and whether the said defendants, Samuel Williams and John Sterling, do not threaten and intend, under the said power of attorney, or under some and what other authority, to sell out the said bank stock and bank annuities, and likewise the said East India stock, and also the said South Sea stock, or some other one, and which of them, or some and what part thereof; and also to receive the money, securities, and effects of the said testator, at the said defendants, Messrs. Hoare, his bankers, and all the other personal estate and effects of the said testator in this country, or of some and what part thereof; and also what he shall receive in respect of the personal estate and effects of the said testator, to remit [to] the said defendant, Henry Nixon, or to some and what other person; and whether the said defendants, the governor and company of the Bank of England, and the said East India company, and the said South Sea com-

pany, or some, or one, and which of them, do not intend respectively to permit the aforesaid transfers of such respective quantities of stock and annuities to be made by the said defendants, Samuel Williams and John Sterling; and whether they, or some and which of them, have not been respectively applied to by your orator, not to permit such respective transfers, or some and which of them; and whether the said defendants, Messrs. Hoare, do not likewise intend to pay over to the said Samuel Williams and John Sterling, or to some and what other persons or person, the money, securities, and effects of the said testator in their hands; and whether it is not alleged by the said defendant, Henry Nixon, and whether such is not the case, that there are certain and what persons in America who claim to be next of kin to the said testator, as being brothers or sisters of his half-blood, or as being descended from them, and in that character claim to be entitled under the said will of the said testator to the residue of his personal estate and effects; and that the said defendant, Henry Nixon, may set forth the names, descriptions, and places of abode of all such claimants or claimant; and whether your orator is not unable to set forth whether there are such, and if so, whether such brothers or sisters of the half-blood are living or dead, or whether they have left any children or child, or who are or is their personal representatives or representative; and whether, upon the true construction of the said will of the said testator, the next of kin of the said testator are entitled under the same to take the residue of the personal estate and effects of the said testator; and whether your orator is not entitled to the same under the said will as the heir-at-law of the said testator, or in some and what other character; and whether, under such circumstances, your orator was not in hopes that the said defendant, Henry Nixon, would have accounted with your orator for the residue of the personal estate of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies; but whether he does not refuse so to do, and why and for what reason; and whether the said defendant, Henry Nixon, does not threaten and intend to withdraw from this country, by means of his aforesaid agents, the said defendants, Samuel Williams and John Sterling, or by some and what other means, all the personal estate and effects of the said testator in this country, or some and what part thereof, and to apply the same *or* contrary to the said will of the said testator; and whether the said defendants, the governor and company of the Bank of England, and the said East India company, and the said South Sea company, ought not to be respectively restrained by the order of this honorable court from permitting any transfer to be made by the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling, of the said respective stock and annuities of the said testator standing in his name in their respective books; and whether the said defendants, Messrs. Hoare, ought not likewise to be restrained by the like order from parting with the said money of the said testator in their hands, or some and what part thereof; and whether the said defendant, the governor and company of the Bank of England should

not be ordered to transfer the said bank stock and bank annuities, or some and what part thereof, respectively, into the name of the accountant general of this honorable court; and whether, also, the proper direction should not be given for the sale of the said East India stock and South Sea stock of the said testator, or some and what part thereof; and whether the money arising therefrom respectively, or some and what part thereof, should not be invested in the purchase of 3 per cent. consolidated bank annuities, in the name of the said accountant general, in trust, in this cause; and whether the said defendants, Messrs. Hoare, should not be directed to pay the money of the testator in their hands, or some and what part thereof, into court; and whether the same, or some and what part thereof, should not be laid out in like manner; and whether some proper person ought not to be appointed by this honorable court to receive and get in all the other outstanding estate and effects of the said testator in this country; and that the said defendant, Henry Nixon, may set forth an account of the personal estate and effects of the said testator possessed by him, or by any person or persons by his order, or for his use, and how and in what manner the same has been disposed of; and that an account may be taken, by and under the direction of this honorable court, of the personal estate and effects of the said testator, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or of any other person or persons by his order, or for his use, or got in and possessed, or secured in any way, since the decease of the said testator; and that such personal estate and effects may be applied in payment of the said testator's funeral and testamentary expenses, and debts and legacies, in a due course of administration; and that the residue of such personal estate and effects may be ascertained; and that your orator may be declared by this honorable court to be entitled, upon the true construction of the said will, as heir of the said testator, to such residue, and that such residue may be accordingly directed by this honorable court to be paid to your orator; and that, in the mean time, the said defendant, Henry Nixon, and the said defendants, Samuel Williams and John Sterling, may be restrained by the injunction of this honorable court from collecting and receiving any part of the personal estate and effects of the said testator in this country, and particularly from selling or transferring the said sum of £4,000 bank stock, £10,000 £3 per cent. consolidated bank annuities, £12,500 reduced 3½ per cent. bank annuities, and 3,500 new 4 per cent. bank annuities, standing in the books of the said governor and company of the Bank of England in the name of the said testator; and the said sum of £3,000 stock standing in the books of the said East India company, in the name of the said testator, and the said sum of £5,000 stock standing in the books of the said South Sea company in the name of the said testator, and from receiving the dividends thereon respectively, and the said moneys, securities, and effects, now in the hands of the said defendants, Messrs. Hoare, as bankers of the said testator; and that the said defendants, the governor and company of the Bank of England, and

the said defendants, the East India company, and the said defendants, the South Sea company, may be respectively restrained from permitting any transfers of such respective sums to be made; and that also the said defendants, the governor and company of the Bank of England, may be directed to transfer the said respective stock and annuities now standing in the name of the said testator in their books, and all dividends accrued thereon respectively, into the name of the accountant general of this honorable court, in trust in this cause; and also that proper directions may be given for the sale of the said stock respectively, standing in the name of the said testator in the respective books of the East India company and of the South Sea company; and that the moneys arising from such sale may, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the 3 per cent. consolidated bank annuities, in the name of the said accountant general, in trust in this cause; and that the said defendants, Messrs. Hoare, may be restrained from paying and delivering the said money, securities, and effects of the said testator in their hands, to the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling; and that the said defendants, Messrs. Hoare, may be ordered to pay the said money of the said testator in their hands into court; and that the said defendants, Samuel Williams and John Sterling, may be restrained by the injunction of this honorable court from remitting any part of the personal estate and effects of the said testator in this country to the said defendant, Henry Nixon; and that some proper person may be appointed by this honorable court to receive and get in all other the outstanding personal estate and effects of the said testator, and for such further and other relief as to your lordship shall seem meet, and the nature of his case may require. May it please your lordship, the premises considered, to grant unto your orator not only his majesty's most gracious writ of injunction, issuing out of and under the seal of this honorable court, to restrain the said Henry Nixon from receiving and withdrawing from this country any of the personal estate and effects of the said testator, and to restrain the said Samuel Williams and John Sterling from receiving or remitting the same estate and effects, or any part thereof, to the said Henry Nixon; and particularly restraining them, respectively, from selling or transferring the bank stock, 3 per cent. consolidated bank annuities, reduced 3½ per cent. bank annuities, new 4 per cent. bank annuities, East India stock, and South Sea stock, standing in the testator's name, and from receiving the dividends thereon respectively, and said moneys, securities, and effects in the hands of Messrs. Hoare, or any other the personal estate and effects of the said testator in this country; and also to restrain the said governor and company of the Bank of England, and the said honorable East India company, and the said honorable South Sea company, respectively, from making or permitting to be made any transfer or sale of such stock and bank annuities, or any part of the same, respectively; and also to restrain the said Messrs. Hoare from paying over, or parting with, all or any part

of the moneys, securities, and effects of the said testator in their hands; bur also to grant unto your orator his majesty's most gracious writ or writs of subpœna to be directed to the said Henry Nixon, when he shall be within the jurisdiction of this honorable court, Samuel Williams, and John Sterling, the said governor and company of the Bank of England, the said honorable company of merchants trading to the East Indies, the said honorable company of merchants trading to the South Seas, the said Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and the rest of the aforesaid confederates when discovered, thereby commanding them, and every of them, on a certain day, and under a certain pain therein to be limited, personally to be and appear before your lordship in this honorable court, and then and there, upon their several and respective corporal oaths, to make a true, direct, and perfect answer to all and singular the premises, and further to stand to, perform, and abide such order, direction, and decree therein as to your lordship shall seem meet; and your orator will ever pray, &c.

JOHN NEWLAND.

X'd—J. R. S.

This is the paper exhibit, or document, referred to by James Robinett Scruby, in his examination, as the paper marked B.

JAS. R. SCRUBY,
W. COWBURN,
ALFRED KING.

This is the paper exhibit, or document, referred to by Samuel Frederick Milford, in his examination, as the paper marked B.

SAM'L FRED'K MILFORD,
W. COWBURN,
ALFRED KING.

In chancery, 20th June, 1836.
ALLEN, by UTTERSON.

The answer of Henry Nixon, one of the defendants to the bill of complaint of John Aspden, complainant.

This defendant, saving and reserving to himself all benefit and advantage of exception, or otherwise, to the said bill of complaint, for answer to the said bill, or to so much thereof as this defendant is advised is material or necessary for him to make answer unto, answereth and saith: He believes that Matthias Aspden, the testator in the said bill named, was born in or about the year 1756, at Philadelphia, in North America, then being the place of residence of his parents; that he continued to reside there, and afterwards was engaged in business at Philadelphia as a merchant, with some success, before he was 21 years of age. Upon the breaking out of the war between Great Britain and America, in the year 1776, or some time in that year, being still a minor, he went to England, with what view respondent is not able, from

his own knowledge, to say, but he believes he went with an impression that the power of Great Britain must soon prevail in putting down the resistance made in America. That the said testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stocks, and on other securities. That he made his will, and the codicils thereto, at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the testator went back to England as his home, or only for the purpose of superintending his property there, and whether the testator did in fact change his domicil, this defendant doth not know, and is unable to answer, from his belief or otherwise. But this defendant believes that the said testator, when in England, considered himself an alien, and as such claimed to have returned the tax taken from his dividends whilst he was absent from England according to the provisions of the said act exempting aliens from the tax, if not resident in England. And this defendant believes and admits, that the said testator invested large sums of money in the purchase of stock and annuities in the English Government funds, and also in the funds of the East India company, and of the South Sea company, and also in the public funds of the United States of America, and in France, and in other securities. And this defendant believes it to be true, that the said testator departed this life in the month of August, 1824, and was, at the time of his death, resident in King street, Holborn, London, but whether the said testator was domiciled in England at the time of his death, this defendant doth not know, and is unable to answer, as to his belief or otherwise. And this defendant believes it to be true, that the said testator, Matthias Aspden, was, in his lifetime, and at the time of making his will and codicils in the said bill, and hereinafter mentioned, possessed of very considerable property, and particularly in the English, French, and American funds, and of various other kinds of personal estate and effects, to a very considerable amount in the whole; and that the said testator, in his lifetime, at Philadelphia, duly made and executed his last will and testament in writing, and 3 codicils thereto, bearing date the 6th day of December, anno domini 1791, and that such will and codicils are in the words and figures, or to the purport and effect, in the said bill in that behalf mentioned and set forth; but for greater certainty as to the date and contents of the said will and codicils, this defendant craves leave to refer thereto. And this defendant saith, that the said testator deposited his said will and codicils, for safe custody, in the cashier's vault of the Bank of North America, at Philadelphia aforesaid, known as the old bank, where the same were found after his decease. And this defendant believes it to be true, that the said testator departed this life on or about the 9th day of August, 1824, without having revoked or altered his said will and codicils, and without issue, and that the said testator had never been married. And this defendant admits it to be true, that Geo. Roberts and Abm. Liddon, in the said will respectively named, both died in the lifetime of the said

testator; and that this defendant, at the time of the death of the said testator, was the president of the bank of North America, at Philadelphia aforesaid, known by the name of the old bank. And this defendant believes that the said testator did, by the expression in the 3d codicil to his said will, "president of the old bank," mean the president of the Bank of North America, at Philadelphia aforesaid. And this defendant admits it to be true, that soon after the death of the said testator, this defendant duly proved the said will and codicil in the proper court of Philadelphia, in America; and that this defendant had also duly proved the said will and codicils in the prerogative court of Canterbury, in England, and obtained a probate thereof from that court, and thereby became the legal personal representative of the said testator. And this defendant admits it to be true, that he has possessed himself of all the personal estate and effects of the said testator in America, or so much thereof as hath come to this defendant's knowledge, a true account of which is in the schedule hereto annexed, marked A; and this defendant has paid the charges of proving the said will in America, and other charges incident thereto, amounting to 701 dollars and 74 cents, and 5 of the legacies, (the others not having yet been claimed,) bequeathed by the said will, amounting to 1,333 dollars and 35 cents, a true account of which payments is in schedule hereto annexed, marked B; and that as executor, other charges must be incurred in managing and settling the estate, the amount of which cannot now be ascertained; besides which, by the laws of Pennsylvania, he will be entitled to a commission for his services.

And this defendant further answering, saith, he believes it to be true, that the said testator was, at the time of his death, (among other descriptions of property,) possessed of property in the English funds, and consisting of such stock and bank annuities, and to such amount, as in the said bill in that behalf mentioned; and that the said testator was also, at the time of his death, possessed of East India stock, and of South Sea stock, of such respective amount as in the said bill in that behalf mentioned; and that such respective quantities of such respective stock and annuities are still standing in the name of the testator in the books of the said respective companies; and this defendant believes that the said testator also died possessed of other personal estate to a considerable amount, and particularly of the sum of £790 3 5 in the hands of his bankers, Messrs. Hoare, in the said bill named; and this defendant further answering saith, he doth not know, and is unable to answer, from his belief, or otherwise, whether the said testator left the complainant his heir-at-law, or whom he left his heir-at-law; or whether Thomas Aspden, of Simonstone, in Lancashire, or what other person, if any, was the common ancestor of the said testator and the complainant; or whether the said last named Thomas Aspden died at the time in the said bill in that behalf mentioned, or at what other time; or whether he had issue 12 children, or what other number of children; or whether the eldest of them was John Aspden, or what other person; or whether the said John Aspden died and was buried at Deptford, in Kent, at the

time in the said bill in that behalf mentioned, or at what other time; or whether he left issue only one son, named Andrew Aspden, or what other issue; or whether the said Andrew Aspden died, and was also buried at Deptford aforesaid, or at what other place at the time in the said bill in that behalf mentioned, or at what other time; or whether he left issue the complainant, his only child and heir-at-law, or what other child or children, or what other person, his heir-at-law; and this defendant saith, he believes it to be true, that the name of the father of the testator was Matthias Aspden, but whether the said last named Matthias Aspden was the third or what other son of Thos. Aspden, the alleged common ancestor of the said testator and of the complainant, this defendant doth not know, and is unable to answer, from his belief or otherwise; and this defendant believes it to be true that the said Matthias Aspden, the father, was resident in America, and while he was there married Rebecca Hartley, a native of America, who was the widow of Roger Hartley, deceased, and the daughter of Philip and Rebecca Packer, both residents of North America; and that the said Matthias Aspden, the father, had issue by her after the said marriage, an only child, namely, the said testator; and this defendant has heard it mentioned that the said Matthias Aspden married the said Rebecca Hartley, who was his housekeeper, while she was pregnant with the said testator, and he believes that the said Rebecca Hartley had several children by her former husband, Roger Hartley, none of whom are now living, but some of them left children who are still living; and this defendant believes that the said Matthias Aspden, the father, had a former wife, named Mary Watson, the daughter of Jonathan Watson, of Elwithen, in Lancashire county, in England, by whom he had issue a daughter, named Mary, who intermarried with Henry Harrison, of Philadelphia, since deceased, leaving issue several children, one of whom, namely, George Harrison, is now living in the city of Philadelphia; the others are dead, but most of them left children now living; and this defendant believes it to be true that the said Matthias Aspden, the father, died in or about the year 1765, at Philadelphia, in North America; but this defendant denies, to the best of his knowledge, information, and belief, that the said Matthias Aspden left the said testator his only lawful issue him surviving; for this defendant believes that the said Matthias Aspden also left his daughter, Mary Harrison, his lawful issue, him surviving; and that this defendant saith that there are many persons residing in the United States of America who claim to be next of kin to the said testator; that this defendant is not able from his own knowledge to name all the persons who so claimed to be next of kin; but he, this defendant, has annexed to this his answer a schedule, marked C, which he prays may be taken as part of his answer, containing the names of some of the persons so claiming to be next of kin, and the manner in which they have alleged to this defendant they are connected with the said testator; and this defendant saith, that, as he is advised and believes, the laws regulating the descent and distribution of real and personal estate differ in different States of the United States,

but that by the laws of Pennsylvania, within which the city of Philadelphia is situated, the real and personal property undisposed of by will of a person who dies, not leaving a father, mother, husband, wife, or children, but brothers or sisters of the whole, and also of the half-blood, or their representatives, would be thus distributed: the brothers and sisters of the whole blood, and the legal representatives of such of the brothers and sisters of the whole blood as are dead, would inherit the real estate in fee simple as tenants in common; the representatives of those who are dead taking together the same share which their parents would have taken if living; and the personal estate would be equally divided among the brothers and sisters of the whole and of the half-blood, or their representatives; the representatives of a deceased brother or sister taking the share which parents would have taken if living; but if there are no brothers or sisters of the whole blood, or their representatives, the brothers and sisters of the half-blood would take the personal property absolutely, in preference of other kindred of the whole blood, and would inherit the real estate in fee simple, except such parts thereof as came to the intestate by descent, devise, or gift of some one of his ancestors, in which case all those who are not of the blood of such ancestor would be excluded from the inheritance of such part of the real estate. That by the laws of Pennsylvania, representation is not confined to the children of brothers and sisters and their issue, but is extended to their most remote descendants, children always taking together the same share which their parents would have done if living; and this defendant saith he doth not know, and is unable to set forth, from his belief or otherwise, whether the complainant, as heir-at-law of the said John Aspden, the alleged eldest brother of the said Matthias Aspden, the father, or in any other way, became, on the death of the said testator, his heir-at-law, or who else is the heir-at-law of the said testator; and this defendant further answering saith, he admits it to be true that he has always been, and still is, resident at Philadelphia aforesaid, and that he has signed and sent over to Samuel Williams and John Sterling, two other defendants in the said bill named, a general power of attorney, bearing date the 7th day of December, anno domini 1824, to collect in and receive all the personal estate and effects of the said testator in this country, or to that effect, with a direction to them to remit to this defendant in America all such personal estate and effects of the said testator, when and as soon as the same should be received by them, the said Samuel Williams and John Sterling, or to that effect; and this defendant saith, he intended to apply such personal estate and effects in America in such manner as should be determined by a court of competent jurisdiction in that country, and not in any manner which is in direct opposition to the said will, as in the said bill is alleged; and this defendant has been informed and believes, that the complainant has caused notice of his alleged rights under the said will to be given to the said Samuel Williams and John Sterling, and has requested them not to receive or remit such personal estate and effects of the said testator to this defendant, or to some

such effect; and this defendant believes, that the said Samuel Williams and John Sterling intended, under the said power of attorney, or under the proper authority of this defendant, to sell out the said bank stock and bank annuities, and likewise the said East India stock, and also the said South Sea stock, and to receive the money, securities, and effects of the said testator, at the said defendants, Messrs. Hoare, his bankers, and also the other personal estate and effects of the said testator in England, and to remit the produce of the said stocks and annuities, and what they should receive in respect of the personal estate and effects of the said testator, to this defendant, in order to be distributed according to the directions of the said will; and this defendant saith, he believes that the expenses of proving the said will in England amounted to the sum of £715 17 10; and that the said Samuel Williams and John Sterling, by virtue of the said power, received the sum of £300, being one-half year's dividend on the sum of £3,000 East India stock, belonging to the said testator, and applied the same in part payment of the said sum of £715 17 10, the residue thereof, amounting to £415 17 10, being, as this defendant believes, paid by the said defendants, Messrs. Hoare, out of the money in their hands belonging to the said testator. And this defendant further answering saith, he admits it to be true that it is alleged by this defendant, and that such is the case, that there are various persons in America who claim to be next of kin of the said testator, as being brothers or sisters of his half-blood, or as being descended from them, as is hereinbefore mentioned, and in that character claim to be entitled, under the said will of the said testator, to the residue of his personal estate and effects; and this defendant hath, in the schedule to this his answer annexed, set forth, to the best of his information and belief, the names, descriptions, and places of abode of all such claimants. And this defendant saith, that he submits to the judgment of the court whether, upon the true construction of the said will of the said testator, the next of kin of the said testator are entitled, under the same, to take the residue of the personal estate and effects of the said testator; or whether the complainant, if he be the heir-at-law of the said testator, is entitled to the same under the said will as such heir-at-law; and this defendant hath, to the schedule A, of this his answer annexed, set forth, to the best of his knowledge, recollection, and belief, an account of the personal estate and effects of the said testator, possessed by him, or by any person or persons by his order, or for his use, and how, and in what manner, the same has been disposed of. And this defendant submits to act as this honorable court shall direct, being indemnified and paid his costs, charges, and expenses therein; and this defendant denies all combination and confederacy with which he is charged in and by the said bill; without this, that, &c,

HENRY NIXON.

902.

Schedule A, referred to in the annexed answer.—Account of the personal estate and effects in America of Matthias Aspden, deceased, which have come to the knowledge and possession of Henry Nixon, his executor.

In 3 per cent. stock of the United States - -	$68,632 01
In 7 per cent. stock of the United States - -	10,000 00
20 shares of stock of the Bank of the United States -	2,000 00
Cash received for back dividends in Loan office, to 1st day of Jan'y, 1825 - - - -	2,669 19
Cash rec'd for back dividends from the Treasury of the United States, to 1st day of Jan'y, 1825 -	1,994 06
Cash rec'd from Stephen Girard, being the bal. of his acct. with the testator - - - -	361 89
Cash rec'd, being dividends on Gov't stock, from 1st day of Jan'y, 1825, to the 5th day of April, 1826 -	3,793 58
Cash rec'd, being dividends of stock of the Bank of the United States, from the 1st day of Jan'y, 1825, to the 5th day of April, 1826 - - -	160 00
	$89,510 73

Note.—Of the above sum of 89,510 dollars 73 cents, there remained in the Treasury of the United States the certificate for the sum of 10,277 dollars 71 cents of 3 per cent. stock of the United States, and the certificates for the sum of 9,800 dollars of the same, having been lost or mislaid during the testator's lifetime, are not in the possession of his executor. The interest on both these sums is paid to the executor, and new certificates may, it is believed, be obtained. The sum of 10,000 dollars of 7 per cent. United States stock has been paid off by the Government.

Schedule B, referred to in the annexed answer.—Accounts of payment made by Henry Nixon, executor of the will of Matthias Aspden, deceased.

Paid to Asher Hartley, son of Benj. Hartley, dec'd, his legacy - - - -	$266 67	
Paid to Rebecca Burroughs, a daughter of said Benj. Hartley, her legacy - - -	266 67	
Paid to Bathsheba Brick, another daughter of the said Benj. Hartley, her legacy - -	266 67	
Paid to Wm. Hinchman, a son of Ann Hinchman, dec'd, his legacy - - -	266 67	
Paid to Joseph Hinchman, administrator of James Hinchman, (who died after Matthias Aspden,) a son of Ann Hinchman, his legacy	266 67	
		$1,333 35
Cash paid expenses of proving the will in Philadelphia, and other charges incident thereto, including fees to counsel - - -	-	$701 74

Schedule C, referred to in the annexed answer.—The following claim to be next of kin to the testator, Matthias Aspden, to wit:

1. The lineal descendants of Mary Harrison, the half-sister of the testator on the paternal side. Those now claiming are: 1. George Harrison. 2. Thos. H. White. 3d. Elizabeth McPherson. 4. Mary Bronson. 5. Mary Harrison. 6. Rebecca McMurtrie. They allege that they are related to the testator in the following manner: Matthias Aspden, the father of the testator, married, as his first wife, Mary Watson, daughter of Jon'n Watson, of Elwithen, of Lancashire county, England, and had issue one daughter, Mary, who married with Henry Harrison, of Philadelphia, by whom she had the following children:

1. Mary, who married the Rt. Rev'd Wm. White. She is dead, having left 3 children, all of whom are still living, viz:
   1. Thos. H. White.
   2. Elizabeth McPhearson, widow of Wm. McPherson, dec'd.
   3. Mary Bronson, widow of Enos Bronson, dec'd.
2. Henry, who died in the testator's lifetime, without issue.
3. Joseph, who died before the testator, without issue.
4. Ann, who married ——— Paca, and died, leaving one child, which died in infancy before the testator.
5. William, } Twins, who died in infancy during the lifetime of
6. George, } the said testator.
7. Matthias, who married Rebecca Francis, and died, leaving 2 children, viz:
   1. Henry, who married Elizabeth Francis, and died before the testator, leaving one child, who is still living, vizt: Mary Harrison.
   2. Rebecca, who married Jas. McMurtrie. She is still living.
8. George Harrison, still living.

2. The lineal descendants of the brothers and sisters of the half-blood of the testator, on the maternal side; a part only of these have as yet claimed.

1. The children of Roger Hartley, deceased.
2. Rebecca Burroughs.
3. Esther Hartley.
4. Bathsheba Brick.
5. Elizabeth Brick.
6. The children of James Hartley, deceased.
7. The children of Mary Brick, deceased.
8. Wm. Hinchman.
9. The children of James Hinchman, deceased.
10. The children of Ann Scull, deceased.
11. The children of John Hinchman, deceased.
12. Sarah Champion.
13. Ann Ellis.
14. John Zanes.
15. Isaac Zanes.
16. Samuel Zanes.

17. Marah A. Church.
18. Ann Warrell.
19. Rebecca Fowler.
20. The children of Isaac Kay, deceased.
21. The children of Matthias Kay, deceased.
22. The children of Elizabeth West, deceased.

They allege that they are related to the testator in the following manner: Rebecca, the mother of the testator, previous to her marriage with the testator's father, had been married to Roger Hartley, by whom she had several children hereinafter named, who were the brothers and sisters of the half-blood of the said testator. The said half-brothers and sisters were:

1. Roger Hartley; he is dead, leaving children, but their number is not known.
2. James Hartley; he is said to be dead, without issue.
3. Benj. Hartley; he is dead, leaving issue, to wit:

1. James Hartley, who died, leaving issue; number not known.
2. Mary Brick, who is dead, leaving children; their number not known.
3. Rebecca Burrough, now living.
4. Esther Hartley, now living.
5. Bathsheba Brick, now living.
6. Elizabeth Brick, now living.

4. Jannet Hartley, said to be dead, without issue.
5. Anne Hinchman; she is dead, leaving issue, viz:

1. Wm. Hinchman, living.
2. James Hinchman, living at testator's death, and since dead.
3. Anne Scull; she is said to be dead, leaving issue, their number not known.
4. John Hinchman; said to be dead, leaving children, their number not known.

6. Bathsheba Zanes; she is dead, leaving issue, viz:

1. Sarah Champion, living.
2. Anne Ellis, living.
3. John Zanes, living.
4. Isaac Zanes, living.
5. Samuel Zanes, living.

7. Rebecca Kay; she is dead, leaving issue, viz:

1. Mary A. Church, living.
2. Anne Warrell, living.
3. Rebecca Fowler, living.
4. Isaac Kay; said to be dead, leaving issue, number not known.
5. Matthias Kay; said to be dead, leaving issue, number not known.
6. Elizabeth West; said to be dead, leaving issue, number not known.

3. Those who claim through the said brother and sister of the mother of the testator. Those who are known are—

1. Samuel Pacher; he alleges that he is related to the said testator as follows: The maiden name of the testator's mother was Rebecca Pacher, she being the daughter of Philip and Rebecca Pacher, her eldest brother was Samuel Pacher, deceased; his eldest son was Daniel Pacher, deceased; whose eldest son is Samuel Pacher, the claimant now living.

2. Those who claim through Rody Pacher, who they allege was the sister of the testator's mother. Rhody Pacher married George Hammett; both are now deceased. They had 7 children, to wit:

1. Joseph, who is dead, leaving children; viz: one, Anne, who is dead, leaving a son, Joseph Lippincott.
2. George, who is dead, leaving a daughter, Leah Prichell.
3. Martha, who married, and is now a widow, Martha Cole.
4. Lydia, who married, and is now a widow, Lydia Blackwood.
5. Hannah, who married, and is dead, leaving a daughter, Maria Hayes.
6. John, who is living.
7. Kilurah, who married, and is now a widow, Kelurah Schenck.
8. Sarah, now living, the wife of S. Kirkbride.
9. Joseph, now living.

2. John, who is dead; he left the following children:

1. Thomas Hammett,
2. John Hammett,
3. Sarah Baxter,
4. Eliz'h Newton,
5. Anne Shinn,
6. Hepsala Hammett,
7. Priscilla Brown.

} Of these it is not certainly known how many are now living, nor whether those who are dead left children.

3. Samuel; he is dead. The only child of his, who is known, is Sibella Prichett.

4. Elias; he is dead, leaving a daughter, Rebecca Phillips.

HENRY NIXON.

X'd.—J. R. S.

This answer was taken, and the above named Henry Nixon, the def't, was duly sworn to the truth thereof upon the holy evangelists, at the house of John Sergeant, situate in Philadelphia, in the United States of America, on the 9th day of May, in the year of our Lord 1826, by virtue of the commission hereunto annexed.

Before us—

JOHN SERGEANT,
—— HOLLINGSWORTH,
JACOB R. SMITH.

This is the paper exhibit or document referred to by James Robinett Scruby, in his examination, as the paper marked C.

JAS. R. SCRUBY.

W. Cowburn,
Alfred King,

This is the paper exhibit or document referred to by Samuel Frederick Milford, in his examination, as the paper marked C.

SAML. FRED'K MILFORD.

W. COWBURN,
ALFRED KING.

The joint and several answers of Samuel Williams and John Sterling, two of the defendants to the bill of John Aspden, complainant.

These defendants, saving and reserving to themselves all benefit and advantage of exception, or otherwise, to the said bill of complaint, for answer to the said bill, or to so much thereof as these defendants are advised is material or necessary for them to make answer unto, answer and say: They have been informed, and believe, that Matthias Aspden, the testator in the said bill named, was formerly a merchant in Philadelphia, in North America, but whether he quitted that country at the time in the said bill mentioned, and resided in this country until the time of his death, except at such intervals as in the said bill is mentioned, or whether the said testator always returned to this country as his home after it is alleged his affairs were settled, these defendants do not know, and are unable to answer, from their belief, or otherwise: and these defendants believe it to be true that the said testator during his residence in this country invested large sums of money in the purchase of stock and annuities in the funds of this country, and also in the funds of the East India company and the South Sea company: and these defendants have been informed, and believe, that the said testator departed this life in the month of August, 1824, and that he was, at the time of his death, resident in King street, Holborn, London; and that the said testator was, in his lifetime, and at the time of his death, possessed of very considerable property, and particularly of the following property, in the English funds, that is to say, of the sum of £4,000 bank stock, £10,000 £3 per cent. consolidated bank annuities, £12,000 reduced £3 10 per cent. bank annuities, £3,500 new £4 per cent. annuities, £3,000 East India stock, and £5,000 South Sea stock, and of the sum of £790 3 5, in the hands of his bankers, Messrs. Henry Hoare, H. H. Hoare, Chas. Hoare, and H. M. Hoare, four other defendants in the said bill named: and these defendants have been informed, and believe, that the said testator was also possessed of considerable property in the American funds, and of other public estate and effects to a considerable amount, but to what amount, in particular, these defendants do not know, and are unable to set forth, from their information and belief; and these defendants have been informed, and believe, that the said testator, in his lifetime, duly made and executed his last will and testament, in writing, and three codicils thereto, bearing date the sixth day of December, 1791, and that such will and codicils are in the words and figures, or to the purport or effect, in the said bill in that behalf mentioned; and these defendants believe it to be true that the said testator afterwards departed this life at the time in the said bill mentioned, without having altered

or revoked his said will and codicils; and that he died without having any issue, and without having been married; and these defendants believe it to be true that George Roberts and Abraham Liddon, in the said bill named, died in the lifetime of the said testator, and that the president of the Bank of Philadelphia, at the time of the death of the said testator, was Henry Nixon, another defendant in the said bill named; and that the said testator did, by the expression in the said third codicil to his said will, "president of the old bank," mean the president of the bank at Philadelphia aforesaid; and these defendants further answering say, they believe it to be true that the said Henry Nixon, soon after the death of the said testator, duly proved his said will and codicils in the proper court in Philadelphia, in America; and these defendants say that the said Henry Nixon executed and sent over to these defendants a general power of attorney, bearing date the seventh day of December, 1824, constituting these defendants his attorneys jointly, for him, as executor of the said testator, and in his name, as such, to ask, demand, sue for, recover and receive of and from all and every persons and person, residing in the kingdom of Great Britain or Ireland, all debts or sums of money due and owing to the estate of the said Matthias Aspden, and also to take into their custody, possession, and power all effects, goods, chattels, stock, and evidences of debt belonging to the said Matthias Aspden, and to demand and receive all dividends and interest upon all stock, Government securities, or other public or private securities, standing in the name of the said Matthias Aspden, in the kingdom of Great Britain or Ireland, and if need be, in his name, or otherwise, to prove the said will of the said Matthias Aspden in the kingdom of Great Britain and Ireland; and generally for him, the said Henry Nixon, as executor aforesaid, to do, transact, and perform, all and every act and acts, things and matters, needful and expedient in and about the premises, and the management of the affairs and concerns of the said Matthias Aspden, in the kingdom of Great Britain and Ireland, as fully and effectually as he, the said Henry Nixon, as executor as aforesaid, could or might do or transact if personally present; but for greater certainty as to the said power of attorney, these defendants crave leave to refer thereto. And these defendants say, that in pursuance and by virtue of the said power of attorney, these defendants caused a commission from the prerogative court of Canterbury to be sent to Philadelphia aforesaid, by virtue whereof the said Henry Nixon duly proved the said will of the said testator, Matthias Aspden, and probate thereof was granted to him by the said court. And these defendants admit it to be true that they received a direction from the said Henry Nixon to sell out the said stocks or funds standing in the said testator's name as aforesaid, and to convert all the said testator's personal estate in this country into money, and to remit the proceeds to the said Henry Nixon, in America, to be distributed by him in that country, according to his said will and codicils. And these defendants say that the complainant obtained an order in this cause, bearing date the 9th day of August last, whereby these defendants

were restrained from selling or transferring the said sums of £4000 bank stock, £10,000 £3 per cent. consolidated bank annuities, £12,500 £3 10 per cent. reduced bank annuities, late £4 per cent. annuities, and £3,500 new £4 per cent. annuities; and also from selling or transferring the said sum of £3000 East India stock, and £5000 South Sea stock; and from receiving any dividends due, or to become due, on the said bank annuities and stocks respectively; save and except the dividends then already due on the said East India and South Sea stocks. And these defendants say that the expenses of proving the said will in England amounted to the sum of £715 17 10, and that these defendants, by virtue of the said power, received the said sum of £300, being one half year's dividend of the sum of £3000 East India stock belonging to the said testator, and applied the same in part payment of the said sum of £715 17 10, the residue thereof amounting to £415 17 10, being paid by the said defendants, Messrs. Hoare, out of the money in their hands belonging to the said testator. And these defendants say, they have not received any part of the dividends of the said South Sea stock, and have not possessed themselves of any other part of the said testator's personal estate or effects, except as aforesaid. And these defendants say, they have no personal interest in the matters in question in this suit, and they submit to act as this honorable court shall direct, being indemnified and paid their costs, charges, and expenses therein. And these defendants deny all unlawful combination and confederacy with which they are charged in and by the said bill; without this, that there is any other matter, cause, or thing in the complainant's said bill of complaint contained, material or effectual in the law for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, avoided, traversed, or denied, is true to the knowledge and belief of these defendants; all which matters and things these defendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct; and humbly pray to be hence dismissed, with their reasonable costs and charges in the law in this behalf most wrongfully sustained.

J. C. TRESLOVE.

S. WILLIAMS,
JOHN STERLING.

Sworn by both the defendants, Samuel Williams and John Sterling, at the public office, Southampton buildings, Chancery lane, this 24th day of January, in the year 1826. Before me,

JAS. TROWER.

Ex'd—J. R. S.

This is the paper exhibit or document referred to by James Robinett Scruby, in his examination, as the paper marked D.

JAS. R. SCRUBY.

W. COWBURN,
ALFRED KING.

or revoked his said will and codicils; and that he died without having any issue, and without having been married; and these defendants believe it to be true that George Roberts and Abraham Liddon, in the said bill named, died in the lifetime of the said testator, and that the president of the Bank of Philadelphia, at the time of the death of the said testator, was Henry Nixon, another defendant in the said bill named; and that the said testator did, by the expression in the said third codicil to his said will, "president of the old bank," mean the president of the bank at Philadelphia aforesaid; and these defendants further answering say, they believe it to be true that the said Henry Nixon, soon after the death of the said testator, duly proved his said will and codicils in the proper court in Philadelphia, in America; and these defendants say that the said Henry Nixon executed and sent over to these defendants a general power of attorney, bearing date the seventh day of December, 1824, constituting these defendants his attorneys jointly, for him, as executor of the said testator, and in his name, as such, to ask, demand, sue for, recover and receive of and from all and every persons and person, residing in the kingdom of Great Britain or Ireland, all debts or sums of money due and owing to the estate of the said Matthias Aspden, and also to take into their custody, possession, and power all effects, goods, chattels, stock, and evidences of debt belonging to the said Matthias Aspden, and to demand and receive all dividends and interest upon all stock, Government securities, or other public or private securities, standing in the name of the said Matthias Aspden, in the kingdom of Great Britain or Ireland, and if need be, in his name, or otherwise, to prove the said will of the said Matthias Aspden in the kingdom of Great Britain and Ireland; and generally for him, the said Henry Nixon, as executor aforesaid, to do, transact, and perform, all and every act and acts, things and matters, needful and expedient in and about the premises, and the management of the affairs and concerns of the said Matthias Aspden, in the kingdom of Great Britain and Ireland, as fully and effectually as he, the said Henry Nixon, as executor as aforesaid, could or might do or transact if personally present; but for greater certainty as to the said power of attorney, these defendants crave leave to refer thereto. And these defendants say, that in pursuance and by virtue of the said power of attorney, these defendants caused a commission from the prerogative court of Canterbury to be sent to Philadelphia aforesaid, by virtue whereof the said Henry Nixon duly proved the said will of the said testator, Matthias Aspden, and probate thereof was granted to him by the said court. And these defendants admit it to be true that they received a direction from the said Henry Nixon to sell out the said stocks or funds standing in the said testator's name as aforesaid, and to convert all the said testator's personal estate in this country into money, and to remit the proceeds to the said Henry Nixon, in America, to be distributed by him in that country, according to his said will and codicils. And these defendants say that the complainant obtained an order in this cause, bearing date the 9th day of August last, whereby these defendants

were restrained from selling or transferring the said sums of £4000 bank stock, £10,000 £3 per cent. consolidated bank annuities, £12,500 £3 10 per cent. reduced bank annuities, late £4 per cent. annuities, and £3,500 new £4 per cent. annuities; and also from selling or transferring the said sum of £3000 East India stock, and £5000 South Sea stock; and from receiving any dividends due, or to become due, on the said bank annuities and stocks respectively; save and except the dividends then already due on the said East India and South Sea stocks. And these defendants say that the expenses of proving the said will in England amounted to the sum of £715 17 10, and that these defendants, by virtue of the said power, received the said sum of £300, being one half year's dividend of the sum of £3000 East India stock belonging to the said testator, and applied the same in part payment of the said sum of £715 17 10, the residue thereof amounting to £415 17 10, being paid by the said defendants, Messrs. Hoare, out of the money in their hands belonging to the said testator. And these defendants say, they have not received any part of the dividends of the said South Sea stock, and have not possessed themselves of any other part of the said testator's personal estate or effects, except as aforesaid. And these defendants say, they have no personal interest in the matters in question in this suit, and they submit to act as this honorable court shall direct, being indemnified and paid their costs, charges, and expenses therein. And these defendants deny all unlawful combination and confederacy with which they are charged in and by the said bill; without this, that there is any other matter, cause, or thing in the complainant's said bill of complaint contained, material or effectual in the law for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, avoided, traversed, or denied, is true to the knowledge and belief of these defendants; all which matters and things these defendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct; and humbly pray to be hence dismissed, with their reasonable costs and charges in the law in this behalf most wrongfully sustained.

J. C. TRESLOVE.

S. WILLIAMS,
JOHN STERLING.

Sworn by both the defendants, Samuel Williams and John Sterling, at the public office, Southampton buildings, Chancery lane, this 24th day of January, in the year 1826. Before me,

JAS. TROWER.

Ex'd—J. R. S.

This is the paper exhibit or document referred to by James Robinett Scruby, in his examination, as the paper marked D.

JAS. R. SCRUBY.

W. COWBURN,
ALFRED KING.

This is the paper exhibit or document referred to by Samuel Frederick Milford, in his examination, as the paper marked D.

SAM'L FRED'K MILFORD.

W. COWBURN,
ALFRED KING.

In chancery, 3d December, 1825.

TURTON by UTTERSON.

The answer of the governor and company of the Bank of England to the bill of complaint of John Aspden, complainant.

These defendants, now and at all times hereafter, saving and reserving to themselves all and all manner of benefit and advantage of exception, which can or may be had or taken to the many errors, uncertainties, and other imperfections in the said complainant's said bill of complaint contained, for answer thereto, or unto so much or such part thereof as these defendants are advised it is material or necessary for them to make answer unto, answering say. They have caused their accountant to search the books of these defendants, and they are informed by their said accountant, and they believe the same to be true, that there was not any sum, either in bank stock, consolidated three per ct. bank annuities, new four per cent. annuities, or £3.10 per cent. reduced bank annuities, standing in the name of Matthias Aspden, of King street, Holborn, London, deceased, on the ninth day of August, 1824. But these defendants say, they are informed by their said accountant, and they believe the same to be true, that there was, on the said ninth day of August, 1824, and now is, the sum of £4000 bank stock, standing in the name of Matthias Aspden, of Orange street, Red Lion square, esquire. And these defendants further say, they have been informed by their said accountant, and they believe the same to be true, that there was, on the said ninth day of August, 1824, and that there now is, the sum of £10,000 consolidated three per cent. bank annuities standing in the name of Matthias Aspden, of Philadelphia, North America, esquire; and that there was, on the said ninth day of August, 1824, and now is, standing in the name of Matthias Aspden, of Fenchurch street, gentleman, the sum of £3,500 new four per cent. bank annuities; and that there were, and now are, respectively standing in the name of Matthias Aspden, of Norfolk street, esquire, the sum of £6,500, £3.10 per cent. reduced annuities, and £6,000 four per cent. bank annuities, (£1780 not assented to receive £3.10 reduced annuities, pursuant to act 5 Geo. 4th, chap. 11.) And these defendants say they are strangers to the several other matters and things in the said complainant's said bill of complaint contained, and are ready and willing to act as this honorable court shall direct, upon being indemnified and paid their costs. And these defendants deny all and all manner of unlawful combination and confederacy, in and by the said complainant's said bill of complaint charged against them; without this, that there is any other matter, cause, or thing, in the complainant's said bill of complaint contained, material or effectual in the law for them

to answer unto, and not herein and hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true; all which matters and things these defendants are ready to aver, justify, maintain, and prove, as this honorable court shall award; and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

WM. HORNE.

Sealed by order of the court of directors, the 1st Dec., 1825.

R. BEST, Sen'r. [L. S.]

Ex'd—J. R. S.

This is the paper exhibit or document referred to by James Robinett Scruby in his examination, as the paper marked E.

JAS. R. SCRUBY.

W. COWBURN,
ALFRED KING.

This is the paper exhibit or document referred to by Samuel Frederick Milford, as the paper marked E.

SAM'L FRED'K MILFORD.

W. COWBURN,
ALFRED KING.

In chancery, 10*th December*, 1825.

TURTON by UTTERSON.

The answer of the united company of merchants of England, trading to the East Indias, defendants to the bill of complaint of John Aspden, complainant.

These defendants, for answer thereto, or to so much thereof as these defendants are advised it is material or necessary for them to make answer unto, answer and say: That the sum of £3,000 East India stock in the said bill mentioned, was on the first day of December, in the year 1820, standing, and hath ever since remained, in the name of Matthias Aspden, in the books of these defendants. And these defendants further answering say, that all the dividends which from time to time accrued due, in respect of the said sum of £3,000 East India stock, in the lifetime of the said Matthias Aspden, were duly paid to him, or to his lawfully constituted attorney; and that all the dividends which have accrued due thereon since his decease, have been paid to Samuel Williams and John Sterling, in the said complainant's bill of complaint named the lawfully constituted attorneys of Henry Nixon, in the said bill also named as the executor of the said Matthias Aspden. And these defendants say, they are strangers to the several other matters and things in the said complainant's said bill of complaint contained, but are ready to act as this honorable court shall direct, on being indemnified in respect thereof, and paid their costs. And these defendants deny all and all manner of unlawful combination and confederacy by the said complainant's bill charged; without this, that there

is any other matter, cause, or thing, in the complainant's said bill of complaint contained, material or effectual in the law for them, these defendants, to make answer unto, and is not herein and hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true, to the knowledge or belief of these defendants; all which matters and things these defendants are ready to verify, maintain, and prove, as this honorable court shall award; and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

[L. S.] JOHN WYATT.

X'd.—J. R. S.

This is the paper exhibit or document referred to by James Robinett Scruby, in his examination, as the paper marked F.

JAS. R. SCRUBY.

W. COWBURN,
ALFRED KING.

This is the paper exhibit or document referred to by Samuel Frederick Milford, in his examination, as the paper mark F.

SAM'L FRED'K MILFORD.

W. COWBURN,
ALFRED KING.

In chancery, 16*th December*, 1825.

ALLEN by UTTERSON.

The answer of the governor and company of merchants of Great Britain, trading to the South seas and other parts of America, and for encouraging the fishery, to the bill of complaint of John Aspden, complainant.

These defendants, now and at all times hereafter, saving and reserving to themselves all and all manner of benefit and advantage of exception to the many errors, uncertainties, and imperfections in the said complainant's said bill of complaint contained, for answer thereunto, or unto so much thereof as these defendants are advised it materially concerns them to answer unto, answer and say: They have caused to be searched their several books in which are entered the accounts of proprietors entitled to or interested in South Sea stock, and they find that, on [the] ninth day of August, 1824, the time of the decease of Matthias Aspden, in the said bill of complaint mentioned, there was standing, in the name of the right honorable Matthias Aspden, of Philadelphia, in North America, the sum of £5,000 South Sea stock. But whether the said Matthias Aspden, in the books of these defendants named as aforesaid, is the same person as is mentioned in the said bill of complaint, and therein called Matthias Aspden, of King street, Holborn, London, deceased, these defendants do not know, nor can they set forth, as to their knowledge, remembrance, information, or belief. And these defendants fur-

ther answering say, that the said sum of £5,000 South Sea stock is now standing in the name of the said right honorable Matthias Aspden in the books of these defendants. And these defendants say they are strangers to, and know nothing of, the several other matters and things *be* the said complainant's said bill of complaint inquired after; and they are ready and willing to act in the premises as this honorable court shall please to direct, on being indemnified and paid their costs; without that, that there is any other matter, cause, or thing in the said complainant's said bill of complaint contained, material or effectual in the law for these defendants to make answer unto, and not herein and hereby well and sufficiently answered, avoided, traversed, or denied, is true, to the knowledge and belief of these defendants; all which matters and things these defendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct; and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

[L. S.] J. B. BOSANQUET.

X'd.—J. R. S.

This is the paper exhibit or document referred to by James Robinett Scruby, in his examination, as the paper marked G.

JAS. R. SCRUBY.

W. COWBURN,
ALFRED KING.

This is the paper exhibit or document referred to by Samuel Frederick Milford, in his examination, as the paper marked G.

SAML. FREDK. MILFORD.

W. COWBURN,
ALFRED KING.

Without oath or signature, as to the defendants Henry Hoare, Hugh Hoare, and Charles Hoare, by order, dated 21st August, 1826. 28th April, 1827; Vesey by Sewell.

The joint and several answers of Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, of Fleet street, London, bankers and copartners, four of the defendants to the bill of complaint of John Aspden, complainant.

These defendants, saving and reserving to themselves, now and at all times hereafter, all benefit and advantage which may be had by way of exception to the said bill of complaint, or otherwise, they, these defendants, each answering for himself, and not one of them for the other of them, jointly and severally, answer and say: They have been informed, and believe, that the testator, Matthias Aspden, in the said bill of complaint named, was formerly a merchant of Philadelphia, in North America, and that he did quit that country at the time in the said bill

mentioned; and that he resided in this country from that time, and kept his banking accounts with these defendants, from the year one thousand seven hundred and eighty-nine, until the time of his death; but they say they cannot set forth accurately, of their own knowledge, respectively, any thing as to the intervals when the said testator visited America, or whether he went thither to settle his affairs in America, or for any other purpose in particular, but they believe that the said testator did always return to this country as to his home, after such affairs or purposes were settled or accomplished. And these defendants respectively admit that they have been informed, and believe, that the said testator did, during his residence in this country, as his domicil, from time to time invest several sums of money in the purchase of stock and annuities in the funds of this country, and also in the funds of the East India company and South Sea company, and likewise in or upon American, French, and Spanish funds and securities.

But these defendants say, they are unable to set forth in what other public company or companies in particular, or in what other security or securities in particular, the said testator did invest any sums of money. And they say, they have set forth, in a schedule marked (A,) to this their answer, which they pray may be taken as part thereof, all the knowledge and information which they possess of investments made by the said testator in different funded securities. And these defendants say, they admit that the said testator did depart this life on or about the ninth day of August, 1824, as in the said bill mentioned; and that, at the time of his death, he was resident in King street, Holborn, London; and they have been informed, and believe, he was domiciled in this country. And these defendants say, they have been informed, and believe, that the said testator was, in his lifetime, and at the time of making his will and codicils, possessed of a very considerable property in the English and American, and also in the French and Spanish funds, but to what extent, either in any of the said funds, or of what other kinds of personal estate and effects, or to what amount in the whole, they, these defendants, are utterly unable to set forth, further than as appears in the aforesaid schedule (A,) hereunto annexed. And these defendants say, they have been informed, and believe, that the said testator did, in his lifetime, duly make and execute his last will and testament, and three codicils thereto, in writing, bearing date on or about the sixth day of December, 1791, as in the said bill mentioned; and that such will and codicils are in words and figures in the said bill mentioned; but, for greater certainty, these defendants refer to the probate thereof, when it shall be produced to this honorable court. And these defendants say, they cannot set forth, by their own actual knowledge, whether the said testator did ever, or in what manner, alter or revoke his said will and codicils, or any part thereof; or whether he did or not die without any or what issue, or whether he had ever been married. But these defendants say, that they have always understood, and believe, that the said testator was never married. And these defendants say, they have been informed, and believe, that Henry Nixon,

in the said bill named, has duly proved the said will and codicils in the proper court at Philadelphia, in America; and that he has also duly proved the same in the proper court in this country, and that he has obtained probate thereof from the prerogative court of the Archbishop of Canterbury, and thereby become the legal personal representative of the said testator. And these defendants admit, that they had money, to the amount of £790 3 5, belonging to the said testator, in their hands, and that they have, since his death, received on his account a further sum of £315, being two dividends on his East India stock, paid into their hands by the defendants, Samuel Williams and John Sterling. And these defendants say, that they were bankers to the said testator for thirty-four years and upwards, immediately previous to his death, and that the said sum of £790 3 5 was the balance due to the said testator in their books at the time of his death. But these defendants further answering say, that the sums of £790 3 5, and £315, have been considerably diminished by payments made on account of the said testator's estate since his death; and that they have added the items of the said payments, in a schedule to this their answer, marked (B,) which they pray may be taken as part of the same; and that the sum of £228 1 11 was the balance in their hands due to the estate of the said testator on the 31st day of July last; which balance these defendants have since paid into the bank, with the privity of the accountant general of this honorable court, to be there placed to the credit of this cause, pursuant to an order made in this cause, dated the 31st day of July last. And these defendants, jointly and severally, say, that they are strangers to, and wholly ignorant of, the several matters and things inquired after by the said complainant in his said bill of complaint; and these defendants deny combination; without this, that there is any other matter, cause, or thing, in the complainant's said bill of complaint contained, material or effectual in the law for these defendants to make answer unto, and not hereby well and sufficiently answered, avoided, traversed, or denied, is true, to the knowledge or belief of these defendants; which matters and things these defendants are ready and willing to aver, maintain, and prove, as this honorable court shall direct; and humbly pray to be hence dismissed with their reasonable costs and charges in the law in this behalf most wrongfully sustained.

H. M. HOARE,
H. F. STEPHENSON.

(A.)

The schedule referred to in the annexed answer, containing an account of the funded property of the testator, come to the knowledge of the defendants, Messrs. Hoare, his bankers, and list of sundry documents in their hands relating thereto.

English funds.

£3,000 East India stock, standing in testator's name, described as Matthias Aspden, of Richmond, Surry, esquire, with the dividends due thereon from July, 1825, Messrs. Williams & Sterling having received

the two previous dividends, as appears in the annexed schedule, (B.) £5,000 South Sea stock, standing in testator's name, described as the right honorable Matthias Aspden, of Philadelphia, in North America, with the dividends due thereon from July, 1824.

French funds.

Inscriptions of five per cent. rentes or tiers consuls.

Date.		Number.	Sum in francs.
20th of Meinder, 10th year of Republic,			
8th July,	1802,	1,109	900
14th - -	1814,	3,022	500
10th January,	1815,	3,046	600
Same date - - -		3,047	500
15th - -	1817,	22,861	2,000
5th May,	1818,	25,621	1,500
31st December,	1818,	29,366	1,000
6th May,	1819,	31,947	578
13th May,	1819,	3,189	500
6th May,	1819	31,956	422
1st October,	1819,	34,069	270
22d May,	1820,	37,689	1,230
20th October,	1820,	39,658	325
16th November,	1821,	44,217	890
7th May,	1822,	46,610	345
27th November,	1822,	48,807	340
6th September,	1823,	52,629	340
22d January,	1824,	53,972	350
15th July,	1824,	55,906	281
Same date - - -		55,939	119

One certificate of Messrs. Lafitte & Co., bankers, of Paris, that they hold the inscriptions of two actions of the Bank of France, which are registered letter H, fo. 6,021, and two attested copies, one of six, the other of four, making together ten actions of the Bank of France. Messrs. Lafitte & Co. also state that they have a balance of 27,623 francs in their hands.

American funds.

Twelve certificates of American stock of the United States, bearing three per cent. interest, the first eight of which are from the Treasury of the United States, and the remaining four from the United States loan office, Pennsylvania.

Date.		Number.	Sum in dolls. and cts.
2d September,	1795,	2,473	2,986 49
15th June,	1796,	11,058	1,000 00
		11,059	1,000 00
		11,060	1,000 00
		11,061	1,000 00
		11,062	1,000 00
		11,063	338 68

17th June,	1796,		11,073	1,952 54
6th September,	1800,	{	1,562	2,500 00
		{	1,563	2,500 00
22d August,	1803,		3,697	3,000 00
10th October,	1803,		3,758	1,800 00

Receipt and guarantee for five shares of the United States Bank stock, standing in the name of Timothy Tweland, certificate No. 36,477, for three shares, and 36,479, for the other two shares, at £121 per share, purchased of Messrs. Robson & Gell for £605.

Receipt and guarantee for two shares of the same bank stock, standing in the name of Priscilla Bevan, certificate No. 26,607, at £119 10 per share, purchased of John Capper for £239, on 30th of April, 1807.

Certificate of James Camerford, notary public, dated 8th July, 1805, that he had sent to America six certificates of the funded eight per cent. stock of the United States, all dated 26th May, 1804, and bearing interest from 1st April, 1804; issued from the United States loan office for New York, and granted to Rt. Henderson, of Claighheads county, Dumfries, in North Britain, by Jas. Nicholson, commissioner of loans for the said State, and numbered, respectively, 1,259 and 3,909 to 3,913, inclusive; the first being for 1,000 dollars, and the remaining five for four hundred dollars each, making in the whole three thousand dollars.

Spanish funds.

Fifty Spanish bonds, of one hundred piastres or dollars each, at four shillings and three pence per dollar, numbered, respectively, 115,916 to 115,965, inclusive, dated Madrid, 1st November, 1820.

(B.)

The schedule referred to in the annexed answer, containing the testator's account with the defendants, Messrs. Hoare, his bankers.

9th Aug., 1824. Cash in the defendants, Messrs. Hoares' hands, at the time of the testator's death, being the balance of the banking account with them - -		£790	3 5
22d Oct., 1825. Cash since received on his account, by payment of the defendants, Williams & Sterling, being two dividends on the testator's £3,000 East India stock, due 5th July, 1825 - - - -		315	0 0
		1,105	3 5
Deduct the following payments made since testator's death, by Messrs. Hoare, viz:			
To Mrs. Elizabeth Nunn, being her bill for rent for testator's lodging, and for necessaries furnished by her for him - -	£20 5 5		
To Messrs. Simmons & Page, undertakers, being their bill for testator's funeral -	89 1 4		

To Messrs. Blake & Co., solicitors, for business done in testator's affairs - -		26	12	3		
To Mr. Jas. Davies, apothecary, for medicines, &c., for testator - - -		25	0	0		
For Messrs. Farquhar, Sladers & Gleimre, proctors, for probate of testator's will -		715	17	10		
To postage of letters on testator's account			4	8		
					877	1 6
Balance paid into the bank, as above stated					£228	1 11

HY. MK. HOARE.

Sworn by the defendant, Henry Merrick Hoare, at the public office, Southampton buildings, in the county of Middlesex, the 7th day of March, 1827, before me,

F. P. STRATFORD.

Examined—J. R. S.

This is the paper exhibit or document referred to by James Robinett Scruby, in his examination, as the paper marked H.

JAS. R. SCRUBY,
W. COWBURN,
ALFRED KING.

This is the paper exhibit or document referred to by Samuel Frederick Milford, in his examination, as the paper marked H.

SAM'L FRED'K MILFORD,
W. COWBURN,
ALFRED KING.

30th July, 1825.
VESEY, by TURTON.

Amended pursuant to order, dated 28th May, 1827.

To the right honorable John, Earl of Eldon, lord high chancellor of Great Britain.

Humbly complaining, sheweth unto your lordship, your orator, John Aspden, of Old street, in the parish of St. Luke, in the city of London, gentleman, the heir-at-law of Matthias Aspden, the testator hereinafter named, that the said Matthias Aspden, of King street, Holborn, London, deceased, was formerly a merchant in Philadelphia, in North America, but quitted that place when the war broke out between this country and America, in the year 1776, and came to, and resided, and became domiciled in this country until the time of his death, hereafter mentioned, except that he went to America after the conclusion of the said war, and at one or two other times, but only to transact or settle his affairs there; and except that he went once or twice on the continent of Europe, and always returned to this country as to his

home; and the said Matthias Aspden, during his residence in this country as the place of his domicil, invested large sums of money in the purchase of stock and bank annuities in the funds of this country, and also in the funds of the East India and South Sea companies; and the said Matthias Aspden departed this life on the 9th of August, 1824, (being then resident in King street, Holborn aforesaid, and domiciled in this country.)

And your orator further sheweth unto your lordship, that the said Matthias Aspden, in his lifetime, and at the time of making his will, hereinafter mentioned, was possessed of very considerable personal property, and was, or believed himself to be, entitled to considerable real estate in this country, and that he was, in particular, possessed of considerable property in the English, American, and French funds, and of various other kinds of personal estate and effects, to a very considerable amount in the whole; and in his lifetime he duly made and executed his last will and testament, in writing, with three codicils thereto, bearing date the 6th day of December, 1791, and which are in the words and figures following, viz:

"These are to certify, that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and personal, to my heir-at-law, first paying all my just debts and funeral expenses, and the following legacies:

"First, to each of the children of my half-brother Benj'n Hartley, dec'd, that may be alive at my death, the sum of £100 to each, Pennsylvania currency; and to my half sister, Bersheba Zare, wife of Elnathan Zare, the sum of £400, Pennsylvania currency. Both the above living, or did live, near Haddonfield. And to my half-brother, Roger Hartley, living at present in Lancaster county, the sum of £300, of the like currency.

"Witness my hand, this 6th day of December, 1791, Philadelphia.

"MATTHIAS ASPDEN."

"Least any question should arise about the legitimacy of my birth, it is my will that my estate, real and personal, should go to the party who would be my lawful heir in case there might arise no doubt on that head. It is firmly believed, by and from the best infirmation, that my birth was after marriage.

"Philadelphia, December 6th, 1791."

"I do further give £100 currency to each of the children of my dec'd half-sister Ann Hinchman, that may be living at my death.

December 6th, 1791."

"*The last will of Matthias Aspden.*

I do hereby appoint my friends Mr. George Roberts, and Mr. Abram. Liddon, with the president of the old bank at the time being, to be my executors to this may 1st will.

MATTHIAS ASPDEN."

"NOTE.—My property in England is as *is as* follows: £12,500 in the 4 per cent. stock; £3,000 in the 5 per cent. stock; £1,800 in the 3 per cent. stock;" as in and by the probate of the said will, when the same shall be produced to this honorable court, reference being thereunto had, will appear.

And your orator further sheweth unto your lordship, that the said testator so departed this life without having revoked or altered his said will, and without issue, he never having been married, and without any brother or sister of the whole blood him surviving, but leaving half-brothers and sisters, and descendants of half-brothers and sisters, on the mother's side, and descendants of a half-sister of the father's side, but which half-sister was illegitimate, him surviving.

And your orator further sheweth unto your lordship, that the said George Roberts and Ab'm Liddon both died in the lifetime of the said testator, and that the president at the bank at Philadelphia, at the time of the death of the testator, was Henry Nixon, esq'r; and the said testator, by the expressions in the third codicil of his said will, "president of the old bank," meant the president of the Bank of Philadelphia; and the said Henry Nixon, soon after the death of the said testator, viz., on the 19th of November last, proved the said will in the proper ecclesiastical court of Philadelphia, and had lately proved the same will in the proper ecclesiastical court in this country, and has obtained probate thereof from the prerogative court of the Archbishop of Canterbury, bearing date the 27th of July, now instant, and thereby became the legal personal representative of the said testator; and the said Henry Nixon hath possessed himself of all the personal estate and effects of the said testator in America and elsewhere, except in this country, and which are much more than sufficient to pay and satisfy all the funeral and testamentary expenses, debts, and legacies of the said testator, and also to leave a very considerable surplus.

And your orator further sheweth unto your lordship, that the said testator was, at the time of his death, among other descriptions of property, possessed of property in the English funds, that is to say: £4,000 bank stock, £10,000 3 per cent. consolidated bank annuities, £6,500 3 and a half per cent. bank annuities, £6,000 £4 per cent. bank annuities, not assented to take £3 10 per cent. per annum in lieu thereof, in the manner provided by an act of parliament, passed in the 5th year of his present majesty, entitled "an act for transferring several annuities of £4 per cent. per annum into annuities of £3 10 per cent. per annum;" and £3,500 new 4 per cent. bank annuities; and which stock and annuities are still standing in the books of the governor and company of the Bank of England in the name of the said testator, with an arrear of dividends or interest thereon respectively; and the said testator was also possessed of East India stock, and also of South Sea stock, to a considerable amount, that is to say: £3,000 East India stock, and £5,000 South Sea stock; and the said testator died also possessed of other personal estate and effects of various descriptions, to a large amount in the whole; and particularly he had

money in the hands of Messrs. Hoare, of Fleet street, London, his bankers, to amount of £790 3 5; and also securities and other effects.

And your orator further sheweth unto your lordship, that the said testator left your orator his heir-at-law, and as evidence thereof, your orator sheweth, that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of both the said testator and your orator, and died many years ago, being before the birth of your orator, who is now aged 85 years, having had issue 12 children, the eldest of whom was John Aspden, who died and was buried at Deptford, in Kent, in the year 1754, leaving issue only one son, viz., Andrew Aspden, who died and was also buried at Deptford aforesaid, in the year 1771, leaving your orator his only child and heir-at-law.

And your orator further sheweth unto your lordship, that the name of the father of the said testator was Matthias Aspden, who was the third son of the said Thomas Aspden, the common ancestor; and that the said Matthias Aspden, the father, being resident in America, married there an American woman, whose Christian name was Rebecca, and who was the widow of Roger Hartley, then deceased, by whom she had previously had several children; and that he, the said Matthias Aspden, the father, had issue by her, some time after the said marriage, an only child, viz., the said testator; and the said Matthias Aspden, the father, died in or about the year 1765, in Philadelphia aforesaid, leaving the said testator his only lawful issue him surviving, so that upon the failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, your orator, as the grandson and heir-at-law of the said John Aspden, who was the eldest brother of the said Matthias Aspden, the testator, became, on the death of the said testator, his heir-at-law.

And your orator further sheweth unto your lordship, that he is advised and submits, that as such heir of the said testator, he is entitled, under the aforesaid will of the said testator, to the residue of the personal estate and effects of the said testator, after payment of the funeral and testamentary expenses, debts, and legacies, and which residue amounts to a very large sum.

And your orator further sheweth unto your lordship that the said Henry Nixon, although he has proved the said will in this country, always has been, and still is, resident at Philadelphia aforesaid, in North America, and he has signed and sent over to Samuel Williams and John Sterling, both of the city of London, merchants, a general power of attorney to collect, get in, and receive all the personal estate and effects of the said testator in this country, with a direction to them to remit to him, the said Henry Nixon, in America, all such personal estate and effects of the said testator, when and so soon as they were received by them, the said Samuel Williams and John Sterling; and the said Henry Nixon threatens and intends to misapply such personal estate and effects, and instead of accounting with and paying to your orator the residue of the said testator's personal estate and effects, as the residuary legatee under the said will, to pay and satisfy the same in a

manner which is in direct opposition to the said will. And your orator further sheweth unto your lordships that he has caused notice of his aforesaid rights to be given to the said Samuel Williams and John Sterling, and has requested them not to receive or remit such personal estate and effects of the said testator to the said Henry Nixon; but the said Samuel Williams and John Sterling threaten and intend, under the said power of attorney, to sell out the said bank stock and bank annuities, and likewise the said India stock, and the said South Sea stock; and also to receive the money, securities, and effects of, and belonging to, the said testator, at the said Messrs. Hoare, his bankers, and all the other personal estate and effects of the said testator in this country, and to remit the produce of the said stocks and annuities, and what he shall so receive in respect of the other personal estate and effects of the said testator, to the said Henry Nixon; and the said governor and company of the Bank of England, and the East India company, and the South Sea company, intend, respectively, to permit the aforesaid respective transfers of such respective quantities of stock and annuities to be made by the said Samuel Williams and John Sterling, unless they are prevented from so doing by the order of this honorable court, although they have been respectively applied to by your orator not to permit such respective transfers; and the said Messrs. Hoare likewise intend to pay over, and part with, to the said Samuel Williams and John Sterling, the moneys, securities, and effects, of the said testator in their hands, unless restrained by the order of this honorable court from so doing. And your orator further sheweth unto your lordship, that there are certain persons in America who claim to be the heir-at-law and next of kin to the said testator, according to the laws of the State of Pennsylvania, one of the United States of North America; and they allege, that by the laws of Pennsylvania, within which the city of Philadelphia is situated, the real and personal property undisposed of by the will of a person who dies, not leaving a father, mother, wife, or children, but brothers or sisters of the whole, and also of the half-blood, or their representatives, would be distributed as follows, that is to say: the brothers and sisters of the whole blood, and the legal representatives of such of the brothers and sisters of the whole blood as are dead, would inherit the real estate in fee simple, as tenants in common, the representatives of those who are dead taking together the same share which their parent would have taken if living, and the personal estate would be equally divided among the brothers and sisters of the whole and of the half-blood of their representative; the representatives of a deceased brother or sister taking the share which their parent would have taken if living; but if there are no brothers or sisters of the whole blood, or their representatives, then brothers and sisters of the half-blood would take the whole of the personal property, in exclusion of other kindred of the whole blood, and would inherit the real estate in fee simple, except such parts thereof as should come to the intestate by descent, devise, or gift of some one of his ancestors; in which case, all those who should not be of the blood of such ancestor would be excluded from the inheritance

of such part of the real estate; and that, by the laws of Pennsylvania, representation is not confined to the children of brothers and sisters and their issue, but is extended to their most remote descendants, children always taking together the same share which their parents would have done if any living. And your orator further sheweth unto your lordship, that Esther Hartley, spinster, is one of the children of Benjamin Hartley, in the said will of the said testator named, who was his half-brother on the mother's side, and as such she claims to be one of the heirs-at-law, according to the law of Pennsylvania, and one of the next of kin, according to the laws both of England and of Pennsylvania, and in such characters, or in one of such characters, she alleges on behalf of herself, and the rest of the next of kin and heirs-at-law, according to the laws aforesaid, that she is entitled to the residue of the personal estate and effects of the said testator; and she also claims to be entitled to the said legacy of £100, given by the said will of the said testator to each of the children of Benjamin Hartley who should be alive at his death. And your orator further sheweth unto your lordship, that your orator is advised, and humbly submits, that upon the true construction of the said will of the said testator, the said Esther Hartley, and the said other claimants, are not entitled under the same will to take the residue of the personal estate and effects of the said testator, but that your orator is entitled to the same under the said will as the heir-at-law of the said testator. And your orator further sheweth unto your lordship, that the said Esther Hartley is out of the jurisdiction of this honorable court. And your orator sheweth unto your lordship, that under the aforesaid circumstances your orator was in hopes that the said Henry Nixon would have accounted with your orator for the residue of the personal estate of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies. But now, so it is, may it please your lordship, that the said Henry Nixon, combining and confederating with the said defendants, Samuel Williams and John Sterling, and with the said governor and company of the Bank of England, and the honorable company of merchants trading to the East Indies, and with the honorable [company] of merchants trading to the South seas, and with the said Messrs. Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and to and with the said Esther Hartley, and with divers others persons at present unknown to your orator, but whose names, when discovered, your orator prays may be herein inserted with apt and proper matter to charge them as parties hereto, contriving how to injure and oppress your orator in the premises, positively refuses to account with and pay to your orator the residue and effects of the said testator, but threatens and intends to withdraw from this country, by means of his aforesaid agents, the said defendants, Samuel Williams and John Sterling, all the personal estate and effects of the said testator in this country, and to apply the same contrary to the will of the said testator. And your orator further charges and submits to this honorable court, and that the said defendants, the governor and company of the Bank of England, and the said East India company, and the said South Sea company, ought to be respec-

tively restrained by the order of this honorable court from permitting any transfer to be made by the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling, of the said respective stock and annuities of the said testator, standing in their or any of their names, or in the name of the said testator, in their respective books; and that the said defendants, Messrs. Hoare, ought likewise to be restrained from parting with the said money, securities, and effects of the said testator; and also that the said defendants, the governor and company of the Bank of England, should be ordered to transfer the aforesaid bank stock and bank annuities into the name of the accountant general of this honorable court, in trust in this cause; and also that proper directions should be given for the sale of the aforesaid East India stock and South Sea stock of the said testator, and that the money arising therefrom respectively should be invested in the purchase of 3 per cent. consolidated bank annuities, in the name of the said accountant general, in trust in this cause; and also that the said defendants, Messrs. Hoare, should be directed to pay the money of the said testator in their hands into court, and that the same should be laid out in like manner; and your orator further charges and submits to this honorable court, that some proper person ought to be appointed for this honorable court to receive and get in all the other outstanding estate and effects of the said testator in this country; all which actions, doings, and pretences of the said confederates, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your orator in the premises. In consideration whereof, and forasmuch as your orator is remediless in the premises, by the strict rules of the common law, and cannot have adequate relief except in a court of equity, where matters of this kind are properly cognizable and relievable; to the end thereof, that the said Henry Nixon and Esther Hartley, when they shall come within the jurisdiction of this honorable court, the said Samuel Williams and John Sterling, the said governor and company of the Bank of England, the said East India company, the said South Sea company, and the said Messrs. Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and their confederates when discovered, may, upon their several and respective oaths, according to the best and utmost of their several and respective knowledge, remembrance, information, and belief, a full, true, and direct, and perfect answer make, to all and singular the measures aforesaid, and that as fully as if the same was here repeated, and they particularly interrogated thereto; and more especially, that the said defendants may, in manner aforesaid, answer and set forth whether the said testator, Matthias Aspden, was not formerly a merchant in Philadelphia, in North America, or at some and what other part, and whether he did not quit that country at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he did not reside, and was not domiciled in this country, or in some and what other country, until the time of his death, or until some and what other period, except at the intervals hereinbefore in that behalf mentioned, or at some and what other intervals; and whether, when he went to

America at such intervals, he did not go thither only to transact or settle his affairs in America, or some and what other purpose, and whether the testator did not always return to this country as to his home after such affairs were settled, or how otherwise; and whether the said testator did not, during such his residence in this country, and the place of his domicil, invest large, or some and what, sums of money *of money* in the purchase of stock and annuities in the funds of this country, and also in the funds of the East India company, and of the South Sea company, or of some and what other public company or companies, and in some and what other securities; and whether the said testator did not depart this life in the month of August, 1824, or at some and what other time; and whether he was not at the time of his death resident in King street, Holborn, London, or at some other place; and whether he was not domiciled in this country at the time of his death; and whether the said testator, Matthias Aspden, was not in his lifetime, and at the time of making his will and codicils, possessed of very considerable personal property; and whether he was not, and whether he did not, believe himself to be entitled to considerable, or some and what, real estate in this country; and whether he was not possessed of considerable, and what, property in the English, French, and American funds, or some and which of them, and of various other and what kinds of personal estate and effects, to a very considerable, or some and what, amount in the whole; and whether the said testator did not in his lifetime duly make and execute his last will and testament in writing, and 3 codicils thereto, bearing date the 6th day of December, 1791, or some and what other date; and whether such will and codicils are not in the words and figures, or to the purport and effect, herein before in that behalf mentioned, or in some and what other words and figures, or to some and what other purport and effect; and whether the said testator did not afterwards depart this life at the time herein before in that behalf mentioned, or at some and what other time; and whether he ever, and when, in any and what manner, altered or revoked his said will and codicils, or any part thereof; and whether he did not die without any or what issue, and without any brother or sister of the whole blood; and whether he had ever, and where, been married, and whether he did not leave the several persons herein before in that behalf mentioned him surviving; and whether his half-sister on the father's side was not illegitimate; and whether the said George Roberts and Abr'm Siddon, did not both, or one and which, of them, die in the lifetime of the said testator; and whether the president of the bank at Philadelphia aforesaid, at the time of the death of the said testator, was not the said defendant, Henry Nixon; and whether the said testator did not, by the expressions in the said 3d codicil to his said will, "president of the old bank," mean the president of the bank at Philadelphia aforesaid, or how otherwise; and whether the said defendant, Henry Nixon, did not soon, and when, after the death of the said testator, duly prove the said will and codicil in the proper court at Philadelphia, in America; and whether he has not also, and

when, duly proved the said will and codicils in the proper ecclesiastical court in this country; and whether he has not obtained probate thereof from the prerogative court of Canterbury, and thereby became legal, personal representative of the testator; and whether he has not possessed himself of all the personal estate and effects of the said testator, or some and what part thereof, in America and elsewhere, except in this country; and whether same are not much more than sufficient to pay and satisfy all the funeral and testamentary expenses, debts, and legacies of the said testator, or some and what part thereof, in America and elsewhere, except in this country; and whether same are not much more than sufficient to pay and satisfy all the funeral and testamentary expenses, debts, and legacies of the said testator, and also to leave a very considerable, or some and what, surplus; and whether the said testator was not at the time of his death, or at some and what other time, among other descriptions of property, possessed of property in the English funds, and whether such property did not consist of such stock and bank annuities, and to such amount, as is hereinbefore in that behalf mentioned, or of some and what other stock and annuities, or to some and what other amount; and whether the said testator was not also possessed at the time aforesaid, or at some and what other time, of East India stock and of South Sea stock, to a considerable and what amount respectively; and whether such respective quantities of such respective stocks were not of such respective amounts, as so hereinbefore in that behalf mentioned, or of some and what other amount; and whether such respective quantities of such respective stocks and annuities, or some and what part thereof, are or is not still standing in the name of the testator, or in the name of some and what other person or persons, in the respective books of the said respective companies, or in the books of one, and which of them; and whether the said testator did not also die possessed of other and what personal estate, to a considerable and what amount in the whole; particularly whether he had not money to the amount of £790 3 5, in the hands of his bankers, the said Messrs. Hoare, or moneys to some other and what amount; and whether the said testator did not leave your orator his heir-at-law; and whether the said Thomas Aspden, of Simondstone aforesaid, was not the common ancestor of the said testator and your orator; and whether the said last named Thomas Aspden did not die at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he had not issue 12 children, or some and what other number of children; and whether the eldest of them was not the aforesaid John Aspden, or some and what other person; and whether the said John Aspden did not die, and was not buried at Deptford aforesaid, or at some and what other place, at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he did not leave issue only one son, that is to say, the said Andrew Aspden, or some and what other issue; and whether the said Andrew Aspden did not *not* die, and was not also buried at Deptford aforesaid, at the time hereinbefore in that behalf mentioned, or at some and what other time; and whether he

914.

did not leave issue your orator his only son and heir-at-law, or some and what other child or children, or some and what other person, his heir-at-law; and whether the name of the father of the said testator was not Matthias Aspden, or some and what other name; and whether the said last named Matthias Aspden was not the third, or some and what other, son of the said Thomas Aspden, the common ancestor, or some and what other son of the said Thomas Aspden, the common ancestor, or of some and what other person; and whether the said Matthias Aspden, the father, was not resident in America, and did not, while he was there, marry an American woman; and whether the christian name of such woman was not Rebecca; and whether the said Matthias Aspden, the father, had not issue by her, after the said marriage, an only child, vizt., the said testator, or some and what other issue; and whether the said Matthias Aspden, the father, did not die in or about the year 1765, or at some and what other time, at Philadelphia, in North America, or at some and what other place; and whether he did not leave the said testator his only lawful issue, or any or what other issue him surviving; and whether upon failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, your orator as heir-at-law of the said John Aspden, the eldest brother of the said Matthias Aspden, the father, or in some or what other way, did not become, on the death of the said testator, his heir-at-law, or who else is the heir-at-law of the said testator; and whether your orator, as such heir-at-law of the said testator, in some or what other character, is not entitled, under the aforesaid will of the said testator, to the residue of his personal estate and effects, after payment of his funeral and testamentary expenses, debts, and legacies; and whether such residue does not amount to a very large and what sum; and whether the said Henry Nixon has not always been, and still is, resident at Philadelphia aforesaid, or at some and what other place; and whether he has not, and when, signed and sent over to the said defendants, Samuel Williams and John Sterling, or to some and what other persons or person, a general power of attorney to collect, get in, and receive all the personal estate and effects of the said testator in this country, or to such purport, or to some and what purport, with the direction to them to remit to him, the said Henry Nixon, in America, all such personal estate and effects of said testator, when and as soon as they are received by them, the said defendants, Samuel Williams and John Sterling, or to such purport and effect, or to some and what other purport and effect; and whether the said defendant, Henry Nixon, does not threaten and intend to misapply such personal estate and effects in America, and instead of accounting with and paying to your orator the residue of the said testator's personal estate and effects as the residuary legatee under the said will, to pay and apply the same in a manner which is in direct opposition to the said will, or how otherwise; and whether your orator has not caused notice of his aforesaid rights under the said will to be given to the said Samuel Williams and John Sterling, and has not requested them not to receive or remit such personal estate and effects of the said testator

to the said Henry Nixon, or to such effect, or to some and what other effect; and whether the said defendants, Samuel Williams and John Sterling, do not threaten and intend, under the said power of attorney, or under some and what other authority, to sell out the said bank stock and bank annuities, and likewise the said East India stock, and also the said South Sea stock, or some or one and which of them, or some and what part thereof, and also to receive the money, securities, and effects of the said testator at the said defendants, Messrs. Hoare, his bankers, and all the said personal estate and effects of the said testator in this country, or of some and what part thereof, and also what he shall receive in respect of the personal estate and effects of the said testator, to remit [to] the said defendant, Henry Nixon, or to some and what other person; and whether the said defendants, the governor and company of the Bank of England, and the said East India company, and the said South Sea company, or some or one and which of them, do not intend respectively to permit the aforesaid transfers of such respective quantities of stock and annuities to be made by the said defendants, Samuel Williams and John Sterling; and whether they, or some and which of them, have not been respectively applied to by your orator not to permit such respective transfers, or some and which of them; and whether the said defendants, Messrs. Hoare, do not likewise intend to pay over to the said Samuel Williams and John Sterling, or to some and what other persons or person, the money, securities, and effects of the said testator in their hands; and whether the said Esther Hartley does not claim to be one of the next of kin and heirs-at-law to the said testator, according to the laws of the State of Pennsylvania, or according to some and what other laws; and whether the laws of the State of Pennsylvania, touching the descent and inheritance of real and personal property, are not as herein before mentioned, or what are the laws of the said State touching descent of real and personal property; and whether the said Esther Hartley, in the characters herein before in that behalf mentioned, or in some and what characters, does not claim on behalf of herself and others to be entitled under the said will of the said testator to the residue of his personal estate and effects, and to the said legacy of £100; and whether she is not one of the children of Benjamin Hartley, in the said will of the said testator named; and whether, upon the true construction of the said will of the said testator, your orator is not entitled to the residue of the personal estate and effects of the said testator, under the said will, as the heir-at-law of the said testator, or in some and what other character; and whether the said Esther Hartley is not out of the jurisdiction of this honorable court; and whether under the circumstances your orator was not in hopes that the said defendant, Henry Nixon, would have accounted with your orator for the residue of the personal estate of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies, but whether he does not refuse so to do, and why, and for what reason; and whether the said defendant, Henry Nixon, does not threaten and intend to withdraw from this country by means

of his aforesaid agents, the said defendants, Samuel Williams and John Sterling, or by some and what other means, all the personal estate and effects of the said testator in this country, or some and what part thereof, and to apply the same contrary to the said will of the said testator; and whether the said defendants, the governor and company of the Bank of England, and the said East India company, and the said South Sea company, ought not to be respectively restrained by the order of this honorable court from permitting any transfer to be made by the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling, of the said respective stock and annuities of the said testator standing in his name in their respective books; and whether the said defendants, Messrs. Hoare, ought not likewise to be restrained by the like order from parting with the said money of the said testator in their hands, or some and what part thereof; and whether the said defendants, the governor and company of the Bank of England, should not be ordered to transfer the said bank stock and bank annuities, or some and what [part] thereof respectively, into the name of the accountant general of this honorable court; and whether, also, the proper directions should not be given for the sale of the said Eas tIndia stock, and South Sea stock, of the said testator, or of some, and what, part thereof; and whether the money arising therefrom respectively, or some and what part, should not be invested in the purchase of 3 per cent. consolidated bank annuities in the name of the said accountant general, in trust in this cause; and whether the said defendants, Messrs. Hoare, should not be directed to pay the money of the testator in their hands, or some and what part thereof, or some and what part thereof should not be laid out in like manner; and whether some proper person ought not to be appointed by this honorable court to receive and get in all the other outstanding estate and effects of the said testator in this country; and that the said defendant, Henry Nixon, may set forth an account of the personal estate and effects of the said testator possessed by him, or by any other persons or person by his order, or for his use, and how, and in what manner the same has been disposed of, and that an account may be taken, by and under the direction of this honorable court, of the said personal estate and effects of the said testator, possessed or received by, or come to, the hands of the said defendant, Henry Nixon, or of any other person or persons by his order, or for his use, or got in and possessed, or secured in any way, since the decease of the said testator; and that such personal estate and effects may be applied in payment of the said testator's funeral and testamentary expenses, and debts, and legacies, in a due course of administration, and that the residue of such personal estate and effects may be ascertained, and that your orator may be declared by this honorable court to be entitled, upon the true construction of the said will, as heir of the said testator to such residue, and that such residue may be accordingly directed, by this honorable court, to be paid to your orator; and that, in the mean time, the said defendant, Henry Nixon, and the said defendants, Samuel Williams and John Sterling, may be restrain-

ed by the injunction of this honorable court from collecting or transferring the said sums of £4,000 bank stock, £10,000 three per cent. consolidated bank annuities, £6,500 reduced three and a half per cent. bank annuities, and £6,000 £4 per cent. annuities, not assented to take £3.10 per cent. per annum in lieu thereof, in the manner and at the times regulated by the said act of the 5th year of his present majesty's reign; and £3,500 new four per cent. bank annuities, standing in the books of the said governor and company of the Bank of England in the name of the said testator; and the said sum of £3,000 stock, standing in the books of the said East India company in the name of the said testator; and the said sum of £5,000 stock standing in the books of the said South Sea company in the name of the said testator; and from receiving the dividends or interests thereon respectively; and the said moneys, securities, and effects, now in the hands of the said defendants, Messrs. Hoare, as bankers of the said testator; and that the said defendants the governor and company of the Bank of England, and the said defendants the East India company, and the said defendants the South Sea company, may be respectively restrained from permitting any transfers of such respective sums to be made; and that, also, the said defendants, the governor and company of the Bank of England, may be directed to transfer the said respective stock and annuities now standing in the name of the said testator in their books, and also dividends accrued due thereon respectively, into the name of the accountant general of this honorable court in this cause; and also that proper directions may be given for the sale of the said stock respectively standing in the name of the said testator in the respective books of the East India company and of the South Sea company; and that the moneys arising from such sale may, together with any other means belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the said accountant general, in trust, in this cause; and that the said defendants, Messrs. Hoare, may be restrained from paying and delivering the said money, securities, and effects of the said testator, in their hands, to the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Sterling; and that the said defendants, Messrs. Hoare, may be ordered to pay the said money of the said testator in their hands into court; and that the said defendants, Samuel Williams and John Sterling, may be restrained, by the injunction of this honorable court, from remitting any part of the personal estate and effects of the said testator in this country to the said defendant, Henry Nixon; and that some proper person may be appointed by this honorable court to receive and get in all other the outstanding personal estate and effects of the said testator and for such further and other relief as to your lordship shall seem meet, and the nature of his case may require. May it please your lordship, the premises considered, to grant unto your orator, not only his majesty's most gracious writ of injunction, issuing out of and under the seal of this honorable court, to restrain the said Henry Nixon from receiving and withdraw-

ing from this country any of the personal estate and effects of the said testator, and to restrain the said Samuel Williams and John Sterling from receiving or remitting the same estate and effects, or any part thereof, to the said Henry Nixon; and particularly restraining them, respectively, from selling or transferring the bank stock, 3 per cent. consolidated bank annuities, reduced 3½ per cent. bank annuities, new 4 per cent. bank annuities, East India stock, and South Sea stock, standing in the testator's name, and from receiving the dividends thereon respectively, and the said moneys, securities, and effects, in the name of Messrs. Hoare, or any other the personal estate and effects of the said testator in this country; and also to restrain the said governor and company of the Bank of England, and the said honorable East India company, and the said honorable South Sea company, respectively, from making or permitting to be made any transfer or sale of such stock and bank annuities, or any part of the same, respectively; and also to restrain the said Messrs. Hoare from paying over or parting with all or any part of the moneys, securities, and effects of the said testator in their hands; but now also to grant unto your orator his majesty's most gracious writ or writs of subpœna, to be directed to the said Henry Nixon, Esther Hartley, when they shall respectively be within the jurisdiction of this honorable court, Samuel Williams and John Sterling, the said governor and company of the Bank of England, the said honorable company of merchants trading to the East Indies, the said honorable company of merchants trading to the South seas, the said Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and the rest of the aforesaid confederates, when discovered; thereby commanding them, and every of them, at a certain day, and under a certain pain, therein to be limited, personally to be and appear before your lordship in this honorable court, and then and there, upon their several and respective corporal oaths, to make a direct and perfect answer to all and singular the premises; and further to stand to, perform, and abide such order, direction, and decree as to your lordship shall seem meet.

And your orator will ever pray, &c.

JOHN NEWLAND.
S. F. MILFORD.

Amended.
X'd.—J. R. S.

This is the paper exhibit, or document, referred to by James Robinett Scruby, in his examination, as the paper marked I.

JAMES R. SCRUBY,
W. COWBURN,
ALFRED KING.

This is the paper exhibit, or document, referred to by Frederick Samuel Milford, in his examination, as the [paper] marked I.

SAM. FRED'K MILFORD,
W. COWBURN,
ALFRED KING.

In chancery, 29*th April*, 1828.

ALLEN, by SEWELL.

The answer of Henry Nixon, one of the defendants, to the annexed bill of complaint of John Aspden, complainant.

This defendant, saving and reserving to himself the same benefit and advantage of exception to the said complainant's said amended bill of complaint, as in and by his answer to the said complainants' original bill of complaint is saved and reserved, for answer to the said amended bill, or unto so much thereof as this defendant is advised it is in any way material or necessary for him to make answer unto, answereth and saith: He has been informed and believes, that Matthias Aspden, the testator in the said bill named, was described in the books of the governor and company of the Bank of England as the proprietor of £10,000 £3 per cent. consolidated bank annuities, by the names and description of Matthias Aspden, of Philadelphia, North America, esquire; and that, as the proprietor of £5,000 South Sea stock, he was described in the books of the South Sea company, as the right honorable Matthias Aspden, of Philadelphia, North America; but for greater certainty as to the description of the said Matthias Aspden in the said books, this defendant craves leave to refer thereto, when produced. And this defendant further saith, that, save as aforesaid, and as in his said former answer mentioned, he does not know, and cannot answer as to his belief or otherwise, whether Matthias Aspden, the testator in the said bill named, did reside and was domiciled in this country, or in any other country, until the time of his death, or until any other period, except at the intervals in the said bill in that behalf mentioned, or at any other intervals in the said bill in that behalf mentioned, or at any other intervals, save and except as appears by the facts herein, and in this defendant's former answer stated or referred to. And this defendant says, that George Roberts and Abraham Liddon, in the will of the testator, and in this defendant's former answer, respectively named, both resided at Philadelphia, in the United States of America, and that they both died there; and this defendant does not know, and cannot answer as to his belief or otherwise, whether the said testator was, or whether he did believe himself to be, entitled to considerable or any real estate in England; however, this defendant does not believe that the said testator did, at the time of making his will and codicils in the said bill mentioned, believe himself to be entitled to any real estate in England; but this defendant believes that the said testator did then believe himself to be entitled to some real estate in America; and this defendant does not know the same of his own knowledge, but he has been informed and believes that the said testator did depart this life without leaving any brother or sister of the whole blood, or of the half-blood, him surviving; and that he did leave descendants of half-brothers and sisters on the mother's side, and descendants of a half-sister of the father's side, him surviving; but this defendant denies, to the best of his knowledge, information, and belief, that the said testator's half-sister,

on his father's side, was illegitimate; and this defendant believes that Esther Hartley, another defendant to the said bill of complaint, does claim to be one of the next of kin and heirs-at-law of the said testator, according to the laws of the State of Pennsylvania in the said bill mentioned, and that the laws of the State of Pennsylvania touching the descent and inheritance of real and personal property are as in the said amended bill, and this defendant's said former answer in that behalf mentioned; and that the said Esther Hartley, in the characters in the said amended bill in that behalf mentioned, does claim on behalf of herself and others to be entitled, under the will of the said testator, to the residue of his personal estate and effects, and to the legacy of £100 in the said bill mentioned, and that she is one of the children of Benjamin Hartley in the will of the said testator named; and that the said Esther Hartley is in America, out of the jurisdiction of this honorable court; and this defendant submits to the judgment of this honorable court, whether, upon the true construction of the said will of the said testator, the complainant is entitled to the residue of the personal estate and effects of the said testator, under the said will, as the heir-at-law of the said testator, or in any other character; without this, that, &c.

H. NIXON.

This answer was taken, and the above named Henry Nixon, the defendant, was duly sworn to the truth thereof, upon the holy evangelists, at the house of Henry Hollingsworth, situate in Philadelphia, in the United States of America, on the 17th day of March, in the year of our Lord 1828, by virtue of the commission hereto annexed before us.

HENRY HOLLINGSWORTH,
JACOB R. SMITH.

This is the paper exhibit, or document, referred to by James Robinett Scruby, in his examination, as the paper marked K.

JAS. R. SCRUBY,
W. COWBURN,
ALFRED KING.

This is the paper exhibit, or document, referred to by Samuel Frederick Milford, in his examination, as the paper marked K.

SAM'L FRED'K MILFORD,
W. COWBURN,
ALFRED KING.

In chancery, 18*th March*, 1828.

VESEY.

To the right honorable John Singleton, Baron Lyndhurst, of Lyndhurst, in the county of Southampton, lord high chancellor of Great Britain.

Humbly complaining, shew unto your lordship, your oratrixes and orator, Jennet Jones, otherwise Jenet Jones, of Old street, in the parish of St. Luke, in the county [of] Middlesex, widow, and Thomas

Poole, 'Chequer court, Old street, in the same parish, and Mary, his wife, that John Aspden, deceased, on or about the 30th day of July, 1825, filed his bill in this honorable court against Henry Nixon, Samuel Williams, John Sterling, the governor and company of the Bank of England, the honorable company of merchants trading to the East Indies, the honorable company of merchants trading to the South seas, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, praying that an account might be taken, by and under the direction of this honorable court, of the personal estate and effects of Matthias Aspden, the testator in the said bill named, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or any other person or persons by his order, or for his use, or got in and possessed, or secured in any way, since the decease of the said testator; and that such personal estate and effects might be applied in payment of the said testator's funeral and testamentary expenses, debts, and legacies, in a due course of administration; and that the residue of such personal estate and effects might be ascertained, and that the said complainant might be declared by this honorable court to be entitled, upon the true construction of the said will, as heir of the said testator, to such residue, and that such residue might be accordingly directed by this honorable court to be paid to the said complainant; and that in the mean time the said defendant, Henry Nixon, and the said defendants, Samuel Williams and John Sterling, might be restrained by the injunction of this honorable court from collecting and receiving any part of the personal estate and effects of the said testator in this country, and particularly from selling or transferring the sums of £4,000 bank stock, £10,000 £3 per cent. consolidated bank annuities, £12,500 £3 10 per cent. reduced bank annuities, and £3,500 new £4 per cent. reduced bank annuities, standing in the books of the said governor and company of the Bank of England in the name of the said testator; the sum of £3,000 stock standing in the books of the said East India company in the name of the said testator; and the sum of £5,000 stock standing in the books of the said South Sea company in the name of the said testator; and from receiving the dividends thereon respectively; and the moneys, securities, and effects, then in the hands of the said defendants, Messrs. Hoare, as bankers of the said testator; and that the said defendants, the governor and company of the Bank of England, and the said defendants, the East India Company, and the said defendants, the South Sea company, might be respectively restrained from permitting any transfers of such respective sums to be made; and that also the said defendants, the governor and company of the Bank of England, might be directed to transfer the said respective stock and annuities standing in the name of the said testator in their books, and also the dividends accrued thereon respectively, in the name of the accountant general of this honorable court in this cause; and also that proper directions might be given for the sale of the said stock respectively, standing in the name of the said testator in the respective books of the East India company and of the South Sea company, and that the moneys

arising from such sale might, together with any other moneys belonging to the estate of the said testator and paid into court, be laid out in the purchase of stock in the 3 per cent. consolidated bank annuities, in the name of the said accountant general, in trust in this cause; and that the said defendants, Messrs. Hoare, might be restrained from paying and delivering the said moneys, securities, and effects of the said testator in their hands to the said defendant, Henry Nixon, or the said defendants, Samuel Williams and John Stirling; and that the said defendants, Messrs. Hoare, might be ordered to pay the said money of the said testator in their hands into court; and that the said defendants, Samuel Williams and John Stirling, might be restrained, by the injunction of this honorable court, from remitting any part of the personal estate and effects of the said testator in this country to the said defendant, Henry Nixon; and that some proper person might be appointed by this honorable court to receive and get in all other outstanding personal estate and effects of the said testator; and your oratrixes and orator further shew unto your lordship, that the said several defendants to the said bill appeared, and put in their answers thereto, and that the said bill was, by virtue of an order, made on or about the 28th day of May, 1827, amended, and Esther Hartley made a defendant thereto; but that no further proceedings have been had in the said suit, as by the said bill and other proceedings, reference being thereto had, will more fully and at large appear; and your oratrixes and orator further shew unto your lordship, that the said plaintiff, John Aspden, afterwards, and on or about the 1st day of March, 1828, departed this life a widower and intestate, leaving your oratrixes his only children him surviving, who are his only next of kin and his co-heirs; and that your oratrixes, on or about the 11th day of March, 1828, obtained letters of administration of the goods and chattels, debts and credits, of the said testator, to be granted to them by and out of the prerogative court of the Archbishop of Canterbury, and by virtue thereof became, and now are, his personal representatives, and that they are entitled to all the benefits which the said intestate was entitled to under and by virtue of the last will of the said testator, Matthias Aspden; and your oratrixes and orator further shew, that the said suit and proceedings became abated by the death of the said John Aspden, and that your oratrixes and orator are advised that they are entitled to have the said suit and proceedings revived against the said defendants, and to be put in the same plight and condition as the same were in at the time of the abatement thereof. To the end, therefore, that the said suit and proceedings, which so became abated, as aforesaid, may stand revived, and be in the same plight and condition as the same were in at the time of the death of the said John Aspden, or that the said defendants may shew good cause to the contrary, may it please your lordship, the premises considered, to grant unto your oratrixes and orator his majesty's most gracious writ or writs of subpœna, issuing out of and under the seal of this honorable court, to be directed to the said Henry Nixon, Esther Hartley, Samuel Williams, John Sterling, and the governor

and company of the Bank of England, the East India company, the South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, thereby commanding them, and every of them, at a certain day, and under a certain pain therein to be limited, personally to be and appear before your lordship in this honorable court, and then and there to answer the premises, and shew cause, if they can, why the said suit, and all the proceedings therein, should not stand revived, and be in the same plight and condition as they were in at the time of the decease of the said John Aspden; and that the cause and proceedings may stand revived, and the said Henry Nixon, Esther Hartley, Samuel Williams, John Stirling, the governor and company of the Bank of England, the East India company, the South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, stand to, perform, and abide by such order, direction, and decree herein as to your lordship shall seem meet. And your oratrixes and orator shall ever pray, &c.

S. F. MILFORD.

This is the paper exhibit, or document, referred to by James Robinett Scruby, in his examination, as the paper marked L.

JAMES R. SCRUBY,
W. COWBURN,
ALFRED KING.

This is the paper exhibit, or document, referred to by Samuel Frederick Milford, in his examination, as the paper marked L.

SAML. FREDK. MILFORD,
W. COWBURN,
ALFRED KING.

VICE CHANCELLOR. Messrs. MILNE & Co.

Saturday, the seventeenth day of July, in the first year of the reign of his majesty, King William the Fourth, one thousand eight hundred and thirty, between Jennet Jones, otherwise Jenet Jones, and Thomas Poole, and Mary, his wife, plaintiffs, Henry Nixon, Samuel Williams, John Sterling, the governor and company of the Bank of England, the honorable company of merchants of England trading to the East Indies, the honorable company of merchants trading to the South seas, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and Esther Hartley, out of the jurisdiction of the court, defendants, by original and amended bill, and bill of revivor.

This cause coming on this present day to be heard and debated before this court, in the presence of counsel, learned, for the plaintiffs, and for all the defendants, except the defendant Esther Hartley. Upon debate of the measure and hearing, an order dated the ninth day of August, one thousand eight hundred and twenty-five, an order dated the thirty-first day of July, one thousand eight hundred and twenty-one, and the accountant general's certificate read, and what

was alleged by the council for the plaintiffs, and for the said defendants, this court doth order that the injunction awarded in the original cause of Aspden vs. Nixon, pursuant to an order made in the said cause, bearing date the ninth day of August, one thousand eight hundred and twenty-five, to restrain the defendants, Samuel Williams and John Sterling, from selling and transferring the four thousand pounds bank stock, ten thousand pounds three pounds per cent. consolidated annuities, six thousand five hundred pounds three pounds ten shillings per cent. reduced annuities, and six thousand pounds bank four pounds per cent. annuities, not assented to; the said six thousand five hundred pounds and six thousand pounds in the said injunction stated by mistake as twelve thousand five hundred pounds reduced three pounds ten shillings per cent. annuities; and three thousand five hundred pounds new four per cent. annuities; and the said last named defendants to be restrained from selling or transferring the said three thousand pounds East India stock, and five thousand pounds South Sea stock; and that the said defendants, Samuel Williams and John Sterling, should be, in like manner, restrained from receiving any dividends due, or to accrue due, on the said bank annuities and stocks respectively, save and except the dividends then already due on the said East India and South Sea stocks; and that the said defendants, the governor and company of the Bank of England, should also be restrained from making, or permitting to be made, any transfer or sale of the said bank annuities and stocks, and from paying any dividends thereon; and that the said defendants, the East India company, should be, in like manner, restrained from making, or permitting to be made, any sale or transfer of the three thousand pounds East India stock; and that the said defendants, the South Sea company, should be, in like manner, restrained from making, or permitting to be made, any transfer or sale of the five thousand pounds South Sea stock; and that the said defendants, the East India company and the South Sea company, should be also, in like manner, restrained from paying any future dividends to accrue due upon the said East India stock and South Sea stock respectively, until the defendants should fully answer the petitioner's bill, or this court make other order to the contrary, be dissolved. And it is ordered that the sum of two hundred and twenty-eight pounds one shilling and eleven pence, cash in the bank, placed to the credit of the cause, Aspden and Nixon, be paid to the defendant, Henry Nixon; and for the purposes aforesaid, the said accountant general is to draw on the bank according to the form prescribed by the act of Parliament, and the general rules and orders of this court in that case made and provided; and this court doth order that the plaintiffs. bill do stand dismissed out of this court, with costs, to be taxed by the master of this court in rotation.

J. C. FRY, Jr.

In the exchequer, Trinity term, 11th George 4th, and first William the 4th, 10th August, 1830.

DAVIS. DAVIS.

This is the paper exhibit, or document, referred to by Thomas Hand, in his examination, as the paper marked M.

THOMAS HAND.

W. COWBURN,
ALFRED KING.

To the right honorable Henry Goulburn, chancellor and under treasurer of his majesty's court of exchequer, at Westminster, the right honorable Sir William Alexander, knight, lord chief baron of the same court, and the rest of the barons there.

MIDDLESEX.

Humbly complaining, show unto your honors, your oratrix Jennet, otherwise Jenet Jones, of Old street, in the parish of Saint Luke, in the county of Middlesex, widow, and Thomas Poole, of Hoxton, in the same county, yeoman, and Mary, his wife, debtors and accountants to his majesty, as by the records of this honorable court, on reference thereunto and otherwise, it may appear; that Matthias Aspden, late of King street, Holborn, in the county of Middlesex, deceased, was formerly a merchant in Philadelphia, in North America, but that he quitted that place when the war broke out between this country and America, in the year one thousand seven hundred and seventy-six, and came to and resided, and thenceforth became domiciled in this country, until the time of his death hereinafter mentioned; and although he went to America after the conclusion of the said war, and at one or two other times only, he went there only temporarily, and to transact or settle his affairs; and he also went once or twice on the continent of Europe, and always returned to this country as to his home; and the said Matthias Aspden, during his residence in this country as the place of his domicil, invested large sums of money in the purchase of bank stock, and of annuities in the funds of this country, and also in the funds of the East India and South Sea companies, and in the French funds; and that the said Matthias Aspden departed this life on the ninth day of August, one thousand eight hundred and twenty-four, being then resident in King street, Holborn aforesaid, and domiciled as aforesaid in this country. And your oratrixes and orator further shew unto your honors that the said Matthias Aspden in his lifetime, aud at the time of making his will hereinafter mentioned, was possessed of very considerable personal property, and that he was in particular possessed of considerable property in the English and American and French funds, and of various other kinds of personal estate and effects to a very considerable amount in the whole; and that in his lifetime he duly made his last will and testament in writing, with several codicils thereto, all bearing date the sixth day of December, one thousand seven hundred and ninety-one, and which are in the words and figures following, viz:

"These are to certify, that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and personal, to my heir-at-law, first paying all my just debts and funeral expenses, and the following legacies:

"First, to each of the children of my half-brother, Benjamin Hartley, deceased, that may be alive at my death, the sum of one hundred pounds to each, Pennsylvania currency; and to my half-sister, Bersheba Zane, wife of Elnathan Zane, the sum of four hundred pounds, Pennsylvania currency; both the above living or did live near Haddonfield; and to my half-brother, Roger Hartley, living at present in Lancaster county, the sum of three hundred pounds of the like currency.

"Witness my hand this 6th day of December, 1791, Philadelphia.

MATTHIAS ASPDEN.

"Least any question should arise about the legitimacy of my birth, it is my will that my estate, real and personal, should go to the party who would be my lawful heir in case there might arise no doubt on that head. It is firmly believed by . and from the best information, that my birth was after marriage. Philadelphia, December 6, 1791.

"I do further give one hundred pounds, currency, to each of the children of my deceased half-sister, Ann Hinchman, that may be living at my death. December 6, 1791.

"The last will of Matthias Aspden.—I do hereby appoint my friends, Mr. George Roberts and Mr. Abram Liddon, with the president of the old bank at the time being, to be my executors to this my last will.

MATTHIAS ASPDEN.

"NOTE.—My property in England is as follows: £12,500 in the 4 per cent. stock; £3,000 in the 5 per cent. stock; £1,800 in the 3 per cent. stock," as in and by the probate of the said will, when the same shall be produced to this court, reference being thereto had, will appear; and your oratrixes and orator further shew unto your honors that the said testator died without having revoked or altered his said will and codicils, and without issue, he never having been married; and that the said George Roberts and Abram Liddon both died in the lifetime of the said testator; and that the president at the bank at Philadelphia, at the time of the death of the said testator, was Henry Nixon, esquire; and the testator by the expression, in the last codicil to his said will, of "the president of the old bank," meant the president of the bank at Philadelphia; and the said Henry Nixon, soon after the death of the said testator, viz., in the month of November, one thousand eight hundred and twenty-four, proved the said will and codicils in the proper ecclesiastical court at Philadelphia; and he has also proved the said will and codicils in the proper ecclesiastical court in this country, namely, in the prerogative court of the Archbishop of

Canterbury, and has obtained probate thereof from the said court, bearing date the twenty-seventh day of July, one thousand eight hundred and twenty-five, and has thereby become the legal personal representative of the said testator; and the said Henry Nixon has possessed himself of all the personal estate and effects of the said testator in America, and elsewhere, except in this country, and which were much more than sufficient to pay all the funeral and testamentary expenses, debts, and legacies of the said testator; after payment whereof there is now remaining a very considerable surplus of the personal estate and effects of the said testator possessed by the said Henry Nixon; and your oratrixes and orator further shew unto your honors that the said testator was not, at the time of his death, seised of or entitled to any real estate, but that he was, at the time of his death, possessed of (among other descriptions of property) the sums following in the English funds, that is to say: four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities, six thousand five hundred pounds three and an half per cent. bank annuities, and three thousand five hundred pounds new four per cent. annuities, and also of six thousand pounds 4 per cent. bank annuities, (not assented to take three pounds ten shillings per cent. per annum, in lieu thereof, in the manner provided by an act of parli[a]ment passed in the fifth year of his late majesty, entitled an act for transferring several annuities of four per cent. per annum into annuities of three pounds ten shillings per annum; and such several sums of stock are still standing in the books of the governor and company of the Bank of England in the name of the said testator, with an arrear of dividends thereon respectively; and the said testator, also, was possessed of East India stock and South Sea stock to a considerable amount, that is to say, three thousand pounds East India stock, and five thousand pounds South Sea stock; and that the said testator died also possessed of other personal estate and effects in England, of various descriptions, to a large amount in the whole, and had money in the hands of Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, of Fleet street, in the city of London, bankers, who also held certificates of inscriptions of stock in the French funds, in the name of the said testator, and certificates or other documents of, or relating to, inscriptions of actions of the Bank of France in the name of the said testator, which inscriptions were to a very large amount respectively; and your oratrixes and orator further shew unto your honors, that the said testator left John Aspden, since deceased, his heir-at-law, according to the law of England in evidence; whereof your oratrixes and orator shew that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of both the said testator and the said John Aspden, and died many years ago, having had issue twelve children, the eldest of whom was John Aspden, who died and was buried at Saint Paul's, Deptford, in Kent, in the month of January, in the year one thousand seven hundred and fifty-four, leaving issue only one son, viz., Andrew Aspden, who died, and was also buried at St. Paul's, Deptford, afore-

said, in the month of September, in the year one thousand seven hundred and seventy-one, leaving issue the said John Aspden, his only child and heir-at-law.

And your oratrixes and orator further shew unto your honors, that the name of the father of said testator was Matthias Aspden, who was the third son of the said Thomas Aspden, the common ancestor; and that the said Matthias Aspden, the father, being resident in America, married there an American woman, whose Christian name was Rebecca, who was the widow of one Roger Hartley, and had issue by her some time after the said marriage an only child, namely, the said testator; and the said Matthias Aspden, the father, died in or about the year one thousand seven hundred and sixty-five aforesaid, leaving the said testator his only child him surviving; so that, upon the failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, the said John Aspden, your orator's late father, as the grandson and heir-at-law of the said John Aspden, who was the eldest brother of the said Matthias Aspden, the father of the said testator, became, on the death of the said testator, his heir-at-law, and as such heir of the said testator he became entitled, under the will of the said testator, to the residue of the personal estate and effects of the said testator, after payment of his funeral and testamentary expenses, debts, and legacies.

And your oratrixes and orator further shew unto your honors, that the said Henry Nixon, altho' he has proved the will and codicils of the said testator in this country, always has been, and still is, resident at Philadelphia aforesaid, in North America; and he alleges that there are certain persons in America who claim to be the heirs-at-law and next of kin to the said testator, according to the laws of Pennsylvania, one of the United States of North America, within which the said city of Philadelphia is situated; for that, by the laws of the said State of Pennsylvania, the real and personal property of a person who dies intestate, leaving no father, mother, wife, or children, but leaving brothers and sisters of the whole and also of the half-blood, or the descendants of such brothers and sisters, are distributable as follows, that is to say, the brothers and sisters of the whole blood, and the descendants representing such of the brothers and sisters of the whole blood as are dead, inherit the real estate in fee simple, as tenants in common, the descendants of those who are dead taking together the same share which their respective parents or ancestors would have taken if living; and the brothers and sisters, as well of the whole as of the half-blood, and the descendants representing such of the said brothers and sisters as are dead, take the personal estate between them; (the descendants representing a deceased brother or sister taking the same share which their respective parents or ancestors would have taken if living;) or if there are no brothers and sisters of the whole blood, or any descendants of such, then the brothers and sisters of the half-blood, and their descendants, take the personal estate between them, in the same manner, in exclusion of the other kindred of the whole blood, and also inherit

the real estate in fee simple; and that the representation of the deceased brothers and sisters is not confined to their children, but is extended to their most remote descendants, such descendants taking always the same share which their respective parents would have done if living.

And your oratrixes and orator further show unto [your] honors, that they are advised that, under the will of the said testator, the residue of his estate, after payment of his funeral and testamentary expenses and debts, and the legacies bequeathed by his said will, passed to the said John Aspden, your oratrixes' late father, as the heir-at-law of the said testator, according to the laws of England, and did not pass to the heirs-at-law of the said testator according to the laws of the said State of Pennslyvania, or to the next of kin of the said testator, either according to the laws of the said State, or according to the laws of England; and that the said John Aspden, as the heir-at-law of the said testator, according to the laws of England, was, at the time of his death, well entitled to the residue of the said testator's estate; and the said John Aspden being so entitled, departed this life on or about the eleventh day of March, one thousand eight hundred and twenty-eight, leaving your oratrixes his only children and next of kin surviving him; and that he died intestate, and that your oratrixes and orator have procured letters of administration of the personal estate and effects of the said John Aspden, their late father, to be granted to them, by and out of the prerogative court of the Archbishop of Canterbury, and have thereby become his legal representatives, as by the said letters of administration, reference being had thereto when produced, will appear.

And your oratrixes and orator further shew unto your honors, that they have caused notice of their right, under the will of the said testator, as the personal representatives of the said John Aspden, to be given to the said Henry Nixon, and the said Henry Nixon well knows and believes, or has reason to believe, that the said John Aspden was, at the death of the said testator, his heir-at-law, according to the laws of England; and that your oratrixes and orator are the personal representatives of the said John Aspden; and your oratrixes and orator, therefore, well hoped that the said Henry Nixon would have accounted with them for the personal estate and effects of the said testator, possessed by him, and for his application thereof, and would have transferred, or caused to be transferred, into their names, the several sums of stock hereinbefore mentioned belonging to the said testator.

But now, so it is, may it please your honors, the said defendant, Henry Nixon, combining and confederating with the governor and company of the Bank of England, the East India company, and the South Sea company, and with various persons to your oratrixes and orator at present unkown, whose names, when discovered, they pray they may be at liberty to insert herein, with proper charges against them as parties defendants hereto, and contriving how to wrong and injure your oratrixes and orator in the premises, has refused to account with your oratrixes and orator for the personal estate and effects of the said testator; and, on the contrary, he threatens and intends forthwith

to withdraw from this country the whole of the personal estate and effects of the said testator yet remaining here; and for that purpose to sell and transfer the said several sums of four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities, three thousand five hundred pounds new four [per] cent. annuities, and six thousand five hundred pounds three and an half per cent. annuities, respectively, standing in the name of the said testator in the books of the governor and company of the Bank of England; and the said Henry Nixon also threatens and intends to apply for and receive the sum of six thousand pounds, payable at the Bank of England, in respect of the sum of six thousand pounds four per cent. bank annuities not assented to take three and an half per cent. annuities in lieu thereof, pursuant to the act before mentioned in that behalf; and the said Henry Nixon also threatens and intends to sell out and transfer the sum of three thousand pounds East India stock, standing in the name of the said testator in the books of the East India company, and the sum of five thousand pounds, standing in the name of the said testator in the books of the South Sea company, and to possess himself of the certificates and other documents in the possession of the said Henry Hugh Hoare, Charles Hoare, and Henry Merick Hoare, of or relating to the inscriptions in the name of the said testator of stock in the French funds, and of actions of the Bank of France; and the said defendants, the governor and company of the Bank of England, the East India company, and the South Sea company, intend to permit the several sales and transfers aforesaid to be made by the said Henry Nixon; and the said defendants, the governor and company of the Bank of England, intend to pay to the said Henry Nixon the sum of six thousand pounds hereinbefore mentioned; and the said Henry Hugh Hoare, Charles Hoare, and Henry Merick Hoare intend to deliver over to him the certificates and other documents aforesaid in their possession, unless they, the said several parties, shall be restrained from so doing by the injunction of this honorable court; and the said Henry Nixon alleges, that he ought to be at liberty to sell and transfer the said several funds, respectively, and to receive the said sum of six thousand pounds, and to possess himself of the said certificates and other documents, in order that the same, or the produce thereof, may be accounted for by him to the persons claiming the residue of the said testator's personal estate, as his real and personal representatives in America; or at least that, regard being had to such claims, he cannot account for or deliver over, or transfer to your oratrixes and orator, or permit them to receive the several funds aforesaid, or the produce thereof, or the aforesaid sum of six thousand pounds, or the certificates and other documents aforesaid, or any part of the personal estate and effects of the said testator in this country, unless he shall be compelled so to do by the decree of this honorable court; but the said defendant does not claim for himself any beneficial right or interest in the residue of the said testator's estate. And your oratrixes and orator charge, that the persons who claim to be entitled to the residue of the estate of the said testator, as his real or

personal representatives in America, are numerous, and are unknown to your oratrixes and orator, and they all reside in America, and out of the jurisdiction of this honorable court, though where now, particularly, your oratrixes and orator are ignorant. To the end, therefore, that the said defendants, Henry Nixon, Henry Hugh Hoare, Charles Hoare, and Hugh Merick Hoare, upon their oaths, and the said defendants, the governor, and company of the Bank of England, the East India company, and the South Sea company, under their respective common seals, may full, true, perfect, and distinct answer make to all and singular the matters aforesaid, to the best and utmost of their knowledge, remembrance, information, and belief, severally and respectively, and that as fully and particularly as if the same were here repeated, and they severally and distinctly interrogated thereto; and more especially that they may, in manner aforesaid, answer and set forth, whether Matthias Aspden, deceased, the testator hereinbefore named, was not formerly, and at or about what time, and during what period, a merchant in Philadelphia, in North America, and whether he did not quit that place at the time and upon the occasion hereinbefore in that behalf mentioned, or when else. And whether he did not then, or at any and what other time, come to and reside in this country. And whether he did not thenceforth, or from some and what time, become domiciled in this country; and whether he did not continue to be so domiciled until the time of his death; and whether he at any time afterwards went to America, except temporarily, and to transact or settle his affairs, or for some and what particular purpose; and when, and how often, and for what periods respectively, did the said testator afterwards visit and reside in America. And whether he did not once or twice, or how often, go on the continent of Europe; and whether he did not on such occasions always return to this country as to his home, or how otherwise; and whether the said testator did not, and whether or not, during his residence in this country as the place of his domicil, and at or about what times respectively, invest several large sums of money, and what sums, from time to time, in the purchase of bank stock and annuities in the funds of this country; and whether or not also in the funds of the East India and South Sea companies, and in the French funds; and whether the said testator did not depart this life on the ninth day of August, one thousand eight hundred and twenty-four, or at or about any or what other time; and whether he was not then resident in King street, Holborn, aforesaid; and whether or not domiciled as aforesaid in this country; and whether the said testator, being possessed of such property as herein before in that behalf mentioned, did not duly make his last will and testament in writing, with several codicils thereto, all bearing date respectively the sixth day of December, one thousand seven hundred and ninety-one, or of any and what other date or dates respectively; and whether the said will and codicils are not respectively in the words and figures, or to the purport and effect, hereinbefore in that behalf mentioned and set forth, or to any and what other purport or effect; and whether the said testator did not die without having

revoked or altered his said will and codicils; and whether or not without issue; and whether he was ever, and when, and to whom married; and whether George Roberts and Abram Liddon, in the last codicil to his said will named, did not both die in the lifetime of the said testator; and whether the said defendant, Henry Nixon, was not the president of the bank at Philadelphia at the time of the death of the said testator; and whether the said testator, by the expression in the third codicil to his said will of "the president of the old bank," did not mean the president of the bank at Philadelphia; and whether the said defendant, Henry Nixon, did not, soon after the death of the said testator, and at or about the time herein before in that behalf mentioned, or when else, prove the said will and codicils in the proper ecclesiastical court at Philadelphia; and whether he has not also proved the same will and codicils in the prerogative court of the Archbishop of Canterbury; and whether he has not obtained probate thereof from the said court, bearing date the twenty-seventh day of July, one thousand eight hundred and twenty-five, or of any and what other date, and has not thereby become the legal personal representative of the said testator; and whether the said defendant, Henry Nixon, has not possessed himself of all the personal estate and effects of the said testator in America and elsewhere, except in this country, and of what particulars consisting, and of what amount and value respectively; and whether the same were not much, and how much, more than sufficient to pay all the funeral and testamentary expenses, debts, and legacies of the said testator, and what has been the amount of such expenses, debts, and legacies, severally and respectively, and in the whole; and whether, after such payment, there is not remaining a very considerable or some surplus of the said personal estate and effects so possessed by the said defendant, and to what amount; and whether he was not, at the time of his death, possessed of (amongst other descriptions of property) such several sums of stock in the English funds as hereinbefore in that behalf particularly mentioned; and whether such several sums of stock are not still standing in the books of the governor and company of the Bank of England in the name of the said testator; and whether there is not some and what arrears of dividends thereon respectively; and whether the said testator was not also possessed of such several sums of East India stock and South Sea stock as hereinbefore in that behalf mentioned, or how otherwise; and whether the said testator did not also die possessed of other personal estate and effects in England of various descriptions to a large, or some and what, amount in the whole; and whether the said testator did not leave John Aspden, hereinbefore named, your oratrix's late father, or if not, then whom else, his heir-at-law according to the law of England; and whether Thomas Aspden, hereinbefore named, of Simondstone, in Lancashire, was not the common ancestor of both the said testator and the said John Aspden, [and] did not die many years ago, and whether he had not issue twelve children, and whether the eldest of such children was not John Aspden, and whether the said John Aspden did not die, and was not

buried at Saint Paul's, Deptford, in Kent, in January, in the year one thousand seven hundred and fifty-four; and whether he did not leave issue only one son, viz., Andrew Aspden; and whether the said Andrew Aspden did not die, and was not also buried at Saint Paul's, Deptford aforesaid, in the year one thousand seven hundred and seventy-one; and whether he did not leave issue the said John Aspden, your oratrix's late father, his only child and heir-at-law; and whether the name of the father of the said testator was not Matthias Aspden; and whether the said Matthias Aspden, the father, was not the third son of the said Thomas Aspden, the common ancestor; and whether he did not, when resident in America, marry there an American woman whose christian name was Rebecca, and who was the widow of one Roger Hartley; and whether he had not issue by her, some time after the said marriage, an only child, namely, the said testator; and whether the said Matthias Aspden, the father, did not die, in or about the year one thousand seven hundred and sixty-five, in Philadelphia aforesaid; and whether he did not leave the said testator his only child surviving him; and whether, in manner aforesaid, upon the failure of issue of the said Matthias Aspden, the father, and of the said Matthias Aspden, the testator, the said John Aspden, your oratrixes' late father, did not, as the grandson and heir-at-law of the said John Aspden, who was the eldest brother of the said Matthias Aspden, the father of the said testator, become, on the death of the said testator, his heir-at-law; and whether, as such heir of the said testator, he did not become entitled, under the will of the said testator, to the residue of the personal estate and effects of the said testator after payment of his funeral and testamentary expenses, debts, and legacies; or, if not, why not; and whether the said defendant, although he has proved the will and codicils of the said testator in this country, has not always been, and is not still, resident at Philadelphia, aforesaid, in North America; and whether the said defendant does or not allege that *they* are, and whether there are or not, in fact, any and what persons in America, who claim to be the heirs-at-law and next of kin of the said testator, according to the laws of the State of Pennsylvania aforesaid, within which the said city of Philadelphia is situated; and whether the laws of the said State, as to succession to real and personal estate, are or not such as hereinbefore in that behalf mentioned; and whether, under the will of the said testator, the residue of the estate, after payment of his funeral and testamentary expenses and debts, and the legacies bequeathed by his said will, did not pass to the said John Aspden, your oratrixes' late father, as the heir-at-law of the said testator, according to the laws of England; and whether the said John Aspden, as the heir-at-law of the said testator, according to the laws of England, was not, at the time of his death, well entitled to the residue of the said testator's estate; and whether the said John Aspden, being so entitled, did not depart this life, at or about the time hereinbefore in that behalf mentioned, or when else; and whether he did not leave your oratrixes his only children and next of kin surviving him; and whether he did not die intestate; and whether your oratrixes and

orator have not procured letters of administration of the personal estate and effects of the said John Aspden, their late father, to be granted to them by and out of the prerogative court of the Archbishop of Canterbury, and have not thereby become his legal representatives; and whether your oratrixes and orator have not caused notice of their right, under the will of the said testator, as the personal representatives of the said John Aspden, to be given to the said defendant; and whether the said defendant does not well know or believe, or has not reason to believe, that the said John Aspden was, at the death of the said testator, his heir-at-law according to the laws of England; and whether or not that your oratrixes and orator are the personal representatives of the said John Aspden; and whether the said defendant, Henry Nixon, ought not to have accounted with your oratrixes and orator for the personal estate and effects of the said testator, possessed and received by him, and for his application thereof; and whether he ought not to have transferred, or caused to be transferred, into their names the several sums of stock hereinbefore mentioned belonging to the said testator; and whether the said defendant has not, and for what reason, refused to account with your oratrixes and orator for the personal estate and effects of the said testator; and whether he has not threatened, and whether he does not intend, forthwith, to withdraw from this country the whole of the personal estate and effects of the said testator yet remaining here; and whether or not, for that purpose, to sell and transfer the said several sums of four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities, three thousand five hundred pounds new four per cent. annuities, and six thousand five hundred pounds three and a half per cent. annuities, respectively standing in the name of the said testator in the books of the governor and company of the Bank of England; and whether the said defendant has not also threatened, and whether he does not intend, to apply for and receive the sum of six thousand pounds, payable at the Bank of England, in respect of the sum of six thousand pounds four per cent. bank annuities, not assented to take three and a half per cent. annuities in lieu thereof, pursuant to the act before mentioned in that behalf; and whether he has not also threatened, and whether he does not intend, to sell out and transfer the sum of three thousand pounds East India stock, standing in the name of the said testator in the books of the East India company, and the sum of five thousand pounds, standing in the name of the said testator in the books of the South Sea company; and whether the said defendants, the governor and company of the Bank of England, the East India company, and the South Sea company, do not intend to permit the several sales and transfers aforesaid to be made by the said defendant, Henry Nixon, unless they shall be restrained from so doing by the injunction of this honorable court; and whether the said defendants, the governor and company of the Bank of England, do not intend to pay to the said defendant, Henry Nixon, the sum of six thousand pounds hereinbefore mentioned, unless they shall be restrained as aforesaid; and whether the said defendant, Henry Nix-

on, does, or not, for any and what reason, allege that he ought to be at liberty to sell and transfer the said *the said* several funds respectively, and to receive the said sum of six thousand pounds, in order that the same may be accounted for by him to the persons claiming the residue of the said testator's personal estate as his real and personal representatives in America; and whether he does or not alledge, that, regard being had to such claims, he cannot account for, or deliver over, or transfer to your oratrixes and orator, or permit them to receive the several funds aforesaid, or the produce thereof, or the aforesaid sum of six thousand pounds, or any part of the personal estate and effects of the said testator in this country, unless he shall be compelled to do so by the decree of this honorable court; and whether the persons who claim to be entitled to the residue of the estate of the said testator, as his real or personal representatives in America, are not numerous, and how many in number, and what are their respective names and descriptions; and whether they are not unknown to your oratrixes and orator; and whether they do not all reside in America, and out of the jurisdiction of this honorable court, and where, in particular, is each of such several persons resident. And that the said defendants may answer the premises, and that the said defendant, Henry Nixon, may set forth an account of the personal estate and effects of the testator, possessed by him, or by any person or persons by his order, or for his use, and how, and in what manner the same has been disposed of; and that an account may be taken, by and under the direction of this honorable court, of the personal estate and effects of the said testator, possessed or received by, or come to the hands of, the said defendant, Henry Nixon, or of any other person or persons by his order, or for his use; and that such personal estate and effects may be applied, so far as the same has not hitherto been done, in payment of the said testator's funeral and testamentary expenses, debts, and legacies, in a due course of administration; and that the residue of such personal estate and effects may be ascertained; and that the said John Aspden, deceased, your oratrixes' late father, may be declared by this court to have been entitled, under the will of the said testator, as heir-at-law of the said testator according to the law of England, to such residue, and that such residue may be directed by this court to be paid and transferred to your oratrixes and orator, as the personal representatives of the said John Aspden; and that, in the mean time, the said defendant, Henry Nixon, may be restrained by the injunction of this honorable court from collecting and receiving any part of the personal estate and effects of the said testator in this country, and particularly from selling and transferring the said sums of four thousand pounds of bank stock, ten thousand pounds three per cent. consolidated bank annuities, six thousand five hundred pounds reduced three and a half per cent. bank annuities, and three thousand five hundred pounds new four per cent. annuities, standing in the books of the governor and company of the Bank of England in the name of the said testator; and from selling, transferring, or receiving the said sum of six thousand

pounds four per cent. annuities, (not assented to take three pounds ten shillings per cent. per annum in lieu thereof, in the manner and at the times required by the said act of the fifth year of his late majesty's reign,) also standing in the books of the said governor and company of the Bank of England in the name of the said testator; and from selling or transferring the said sum of three thousand pounds stock, standing in the books of the said East India company in the name of the said testator, and the said sum of five thousand pounds stock, standing in the books of the said South Sea company in the name of the said testator, and from receiving the dividends or interest upon any of the several stocks or funds aforesaid; and that the said defendants, the governor and company of the Bank of England, and the said defendants, the East India company, and the said defendants, the South Sea company, may be respectively restrained from permitting any transfers of such respective sums to be made; and that the said defendants, the governor and company of the Bank of England, may be directed to transfer the said respective stock now standing in the name of the said testator in the said books, and all dividends accrued thereon respectively, into the name of the accountant general of this honorable court, in trust in this cause; and to pay into the bank, to the credit of the accountant general in this cause, the sum of six thousand pounds, payable in respect of the same sum of four per cent. annuities now standing in the name of the said testator, not assented as aforesaid; and that proper directions may be given for the sale of the said stock respectively, standing in the name of the said testator in the respective books of the East India company and of the South Sea company; and that the moneys arising from such sale may, together with any other moneys belonging to the estate of the said testator, and paid into court, be laid out in the purchase of stock in the three per cent. consolidated bank annuities, in the name of the said accountant general, in trust in this cause; and that some proper person may be appointed by this honorable court to receive and get in all other the outstanding personal estate and effects of the said testator; and that your oratrixes and orator may have *have* such further or such other relief in the premises as to your honors shall seem meet, and the nature and circumstances of the case may require.

May it please your honors, the premises considered, to grant unto your orators, not only his majesty's most gracious writ of injunction, issuing out of and under the seal of this honorable court, to restrain the said defendant, Henry Nixon, from selling or transferring the said sums of four thousand pounds bank stock, ten thousand pounds three per cent. consolidated bank annuities, six thousand five hundred pounds three and a half per cent. bank annuities, and three thousand five hundred pounds new four per cent. annuities; and from selling, transferring, or receiving six thousand pounds four per cent. annuities, (not assented to take three pounds ten shillings per cent. per annum in lieu thereof,) or any part thereof; and from selling or transferring the sum of three thousand pounds stock,

standing in the books of the said East India company in the name of the said testator, and the said sum of five thousand pounds stock, standing in the books of the said South Sea company in the name of the said testator; and from receiving the dividends or interest upon any of the several stocks or funds aforesaid, and from possessing himself of the certificates or other documents in the possession of the said defendants, Henry Hugh Hoare, Charles Hoare, and Henry Merick Hoare, of, or relating to, the inscriptions in the name of the said testator of stock in the French funds, or of actions of the Bank of France; and also to restrain the said governor and company of the Bank of England, and the said East India Company, and the said South Sea company, from permitting any such sales or transfers to be made; and that the said defendants, Henry Hugh Hoare, Charles Hoare, and Henry Merick Hoare, may be restrained by the like injunction from parting with the certificates and other documents aforesaid; but also his majesty's most gracious writ of distringas, for the appearance of the said defendants, the governor and company of the Bank of England, the East India company, and South Sea company, in this honorable court; and also his majesty's most gracious writ or writs of subpœna, to be directed to the said defendants, Henry Nixon, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and the rest of their confederates when discovered, thereby commanding them, at a certain day, and under a certain pain therein to be limited, personally to be and appear before your honors in this honorable court, and then and there to answer all and singular the premises, to stand to, perform, and abide such order, direction, and decree therein as to your honors shall seem meet; and your orators shall ever pray, &c.

EDWARD WILBRAHAM.

X'd—T. HAND.

This is the paper exhibit, or document, referred to by Thomas Hand, in his examination, as the paper marked N.

THOMAS HAND.

W. COWBURN,
ALFRED KING.

Davis—filed 7th June, 1831.

The plea of Henry Nixon, one of the defendants to the bill of complaint of Jennett, otherwise Jenet Jones, and Thomas Poole and Mary, his wife, complainants.

This defendant, by protestation not confessing, or acknowledging all or any of the matters and things in the said complainants' said bill mentioned, to be true in such manner and form as the same are therein and thereby set forth and alledged, doth plead in bar to the said bill, and for plea saith, that John Aspden, in the said bill of complaint alleged to have been the heir-at-law, according to the law of England, of Mathias

Aspden, the testator, of the said bill of complaint named, at the time of the death of such testator, and to be since deceased on or about the thirtieth day of July, one thousand eight hundred and twenty-five, exhibited his original bill of complaint in the high court of chancery in this country, which was afterwards amended by an order of the said court, bearing date the twenty-eighth day of May, one thousand eight hundred and twenty-seven, against this defendant and the other defendants to the said bill of complaint of the said complainants in this court; and also against Samuel Williams and John Stirling, therein named as the attorneys of this defendant, to collect and receive the property and effects of the said testator in England; and Esther Hartley, therein alleged to claim to be entitled to a share of the property of the said testator as one of his next of kin, and to be out of the jurisdiction of the said high court of chancery; thereby stating and charging the same matters and things as are stated and charged in the said bill of complaint of the said complainants in this court, save as to the death of the said John Aspden, and as to the said complainants having become his legal personal representatives; and thereby praying that an account might be taken, by the direction of the said high court of chancery, of the personal estate and effects of the said Mathias Aspden, possessed or received by, or come to the hands of, this defendant, or any other person or persons by his order or for his use, or got in or possessed, or secured in any way, since the decease of the said Mathias Aspden; and that such personal estate and effects might be applied in payment of the said Mathias Aspden's funeral and testamentary expenses, and debts, and legacies, in a due course of administration, and that the residue of such personal estate and effects might be ascertained, and that the said complainant, John Aspden, might be declared by the said court of chancery to be entitled, upon the true construction of the will of the said Mathias Aspden in the said bill of complaint of the said John Aspden set forth, as heir of the said testator, Mathias Aspden, to such residue, and that such residue might be accordingly directed by the said court of chancery to be paid to the said complainant, John Aspden; and that, in the mean time, this defendant, and the said defendants, Samuel Williams and John Stirling, might be restrained by the injunction of the said court from collecting and receiving any part of the personal estate and effects of the said testator, Matthias Aspden, in this country; and particularly from selling or transferring the sum of four thousand pounds bank stock; ten thousand pounds three pounds per cent. consolidated bank annuities; six thousand five hundred pounds reduced three and a-half per cent. bank annuities; six thousand pounds four pounds per cent. annuities, not assented to take three pounds ten shillings per cent. per annum *as* lieu thereof, in the manner, and at [the] times required by an act of parliament of the fifth year of his then majesty, King George the Fourth; and three thousand five hundred pounds new four pounds per cent. bank annuities, then standing in the books of the said governor and company of the Bank of England in the name of the said testator, Mathias Aspden; and the sum of three thou-

sand five hundred pounds stock standing in the books of the East India company in the name of the said testator, and the sum of five thousand pounds stock standing in the books of the South Sea company in the name of the said testator, and from receiving the dividends or interest thereon respectively; and the moneys, securities, and effects then in the hands of Messieurs Hoare, as bankers of the said testator; and that the governor and company of the Bank of England, and the East India company, and the South Sea company, all of them defendants to the said bill of complaint in the said high court of chancery, might be respectively restrained from permitting any transfers of such respective sums to be made; and also that the governor and company of the Bank of England might be directed to transfer the said respective stock and annuities then standing in the name of the said testator in their books, and all dividends accrued due thereon respectively, into the name of the accountant general of the said high court of chancery; and also that proper directions might be given for the sale of the said stock then respectively standing in the name of the said testator in the respective books of the East India company and the South Sea company; and that the moneys arising from such sale might, together with any other moneys belonging to the estate of the said testator, and paid into the said high court of chancery, be laid out in the purchase of the stock in the three pounds per cent. consolidated bank annuities, in the name of the said accountant general of such last mentioned court, in trust in the said cause; and that the said defendants, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, might be restrained from paying and delivering the moneys, securities, and effects of the said testator in their hands, to this defendant, or the said Samuel Williams and John Stirling; and that the said Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, might be ordered to pay the said money of the said testator in their hands into the said court of chancery. And that the said defendants, Samuel Williams and John Stirling, might be restrained, by the injunction of the said court, from remitting any part of the estate and effects of the said testator in this country to this defendant; and that some proper person might be appointed by the said high court of chancery to receive and get in all other the personal estate and effects of the said testator, and for further relief. And this defendant further saith, that by an order of the high court of chancery, bearing date the ninth day of August, one thousand eight hundred and twenty-five, such injunction to restrain the sale and transfer of the said stock and funds, and the receipt of the dividends thereof as hereinafter is mentioned to have been dissolved, was granted; and that by an order, dated the 31st day of July, one thousand eight hundred and twenty-six, made in the said cause in the said high court of chancery, certain moneys, part of the estate of the said Matthias Aspden, were ordered to be paid into court, and the same were accordingly paid into court. And this defendant further saith, that this defendant and the said other defendants to the said bill of complaint in the high court of chancery, except the said Esther Hartley, who was out of the jurisdiction, put in

their respective answers to the said bill of complaint of the said John Aspden. And this defendant by his said answer stated, amongst other things, that he believed that Matthias Aspden, the testator in the said bill named, was born, in or about the year one thousand seven hundred and fifty-six, at Philadelphia, in North America, being the place of residence of his parents; that he continued to reside there, and was afterwards engaged in business at Philadelphia, as a merchant, with some success, before he was twenty-one years of age, and that upon the breaking out of the war between Great Britain and America, in the year one thousand seven hundred and seventy-six, or some time in that year, being still a minor, he went to England, with what view this defendant was not able from his own knowledge to say, but he believed he went with an impression that the power of Great Britain must soon prevail in putting down the resistance made in America. And that the said testator subsequently came several times to the United States of America, and invested large sums there in the public or Government stock, and on other securities; and that he made his will and the codicils thereto at Philadelphia, the place of his birth, and deposited them in the bank there; but whether, after so returning to the United States of America, the said testator went back to England as his home, or only for the purpose of superintending his property there, and whether the said testator did in fact change his domicil, this defendant did not know, and was unable to answer from his belief or otherwise; but that this defendant believed, that the said testator, when in England, considered himself an alien, and as such claimed to have returned the tax from his dividends while he was absent from England, according to the provisions of the act exempting aliens from the tax if not resident in England. And this defendant further saith, that the said John Aspden, the complainant in the said cause in the said high court of chancery, having departed this life, whereby the said suit in such court became abated, the said complainants, Jennett, otherwise Jenet Jones and Thomas Poole and Mary, his wife, on or about the eighteenth day of March, one thousand eight hundred and twenty-eight, exhibited their bill of revivor in the said high court of chancery against this defendant, and the other defendants in the said original and amended bill in the said high court of chancery, thereby stating the said proceedings in the said original cause, and the death of the said complainant, John Aspden, intestate, leaving the said complainants, Jenet Jones and Mary Poole, his only children and next of kin; and that the said Jenet Jones and Mary Poole had obtained letters of administration of the goods, chattels, debts, and credits of the said intestate, to be granted to them out of the prerogative court of the Archbishop of Canterbury, and thereby praying that the said suit and proceedings, which so became abated as therein and hereinbefore mentioned, might stand revived, and be in the same plight and condition as the same were in at the time of the death of the said John Aspden. And this defendant further saith, that the said suit was afterwards duly revived, and

that this cause being at issue, came on to be heard before his honor, the Vice Chancellor of England, on the seventeenth day of July, one thousand eight hundred and thirty, when his honor was pleased to order and decree, that the injunction awarded in the original cause of Aspden against Nixon, pursuant to an order made in the said cause, bearing date the ninth day of August, one thousand eight hundred and twenty-five, to restrain the defendants, Samuel Williams and John Stirling, from selling or transferring the four thousand pounds bank stock, ten thousand pounds three pounds per cent. consolidated bank annuities, six thousand five hundred pounds three pounds ten shillings per cent. reduced annuities, and six thousand pounds bank four pounds per cent. annuities, not assented to, (the said six thousand five hundred pounds and six thousand pounds in the said injunction stated by mistake as twelve thousand five hundred pounds reduced three pounds ten shillings per cent. annuities,) and three thousand five hundred pounds new four pounds per cent. annuities; and the said last named defendants to be restrained from selling or transferring the said three thousand pounds East India stock, and five thousand pounds South Sea stock; and that the said defendants, Samuel Williams and John Stirling, should be in like manner restrained from receiving any dividends due, or to become due, on the said bank annuities and stocks, respectively, save and except the dividends then already due on the said East India and South Sea stocks; and that the said defendants, the governor and company of the Bank of England, should be also restrained from making, or permitting to be made, any transfer or sale of the said bank annuities and stocks, and from paying any dividends thereon; and that the said defendants, the East India company, should be in like manner restrained from making, or permitting to be made, any sale or transfer of the three thousand pounds East India stock; and that the said defendants, the South Sea company, should be in like manner restrained from making, or permitting to be made, any transfer or sale of the five thousand pounds South Sea stock; and that the said defendants, the East India company and the South Sea company, should be also in like manner restrained from paying any future dividends to accrue due upon the said East India stock and South Sea stock, respectively, until the defendants should fully answer the said bill, or the said court should make other order to the contrary, should be dissolved; and that the sum of two hundred and twenty-eight pounds one shilling and eleven pence cash in the bank, placed to the credit of the cause, Aspden against Nixon, and for the purposes aforesaid, the accountant general of the said court was to draw on the bank according to the form prescribed by the act of parliament, and the general rules and orders of the court in that case made and provided; and that the said plaintiffs' said bill should stand dismissed out of the said court with costs, to be taxed by the master of the said court in rotation. And this defendant further saith, that the said decree has been since duly signed and enrolled; and this defendant doth aver, that the said suit in the said high court of chancery, so as aforesaid revived and brought to hearing by the said complainants,

Jennett Jones, otherwise Jenet Jones, and Thomas Poole and Mary, his wife, against this defendant, and the said other defendants thereto, was for the same matters, and to the same effect, and for the like relief and purposes, as against this defendant and the said other defendants thereto, being also defendants to the said complainants' present bill of complaint in this court, as the said complainants do by their said present bill of complaint in this court set forth, and seek relief for as against this defendant and the said other defendants to the said present bill of complaint of the said complainants in this court; and therefore this defendant doth plead the said decree of the said high court of chancery, signed and enrolled as aforesaid in bar to the said complainants' said present bill of complaint in this honorable court; and humbly prays the judgment of this honorable court whether he shall be compelled to make any further or other answer thereto; and this defendant prays to be hence dismissed with his reasonable costs in this behalf wrongfully sustained.

S. DUCKWORTH.

X'd—T. HAND.

This is the paper exhibit, or document, referred to by Thomas Hand, in his examination, as the paper marked O.

THOMAS HAND.

W. COWBURN,
ALFRED KING.

In the exchequer.
Filed December 11th, 1830. DAVIS.

The answer of the governor and company of the Bank of England, defendants, to the bill of complaint of Jennet, otherwise Jenet, Jones, and Thomas Poole and Mary, his wife, complainants.

These defendants, now and at all times hereafter, saving and reserving to themselves all and all manner of benefit and advantage of exception which can or may be had or taken to the said complainants' said bill of complaint, for answer thereunto, or unto so much thereof as these defendants are advised it is, in any wise, material or necessary for them to make any answer unto, answering say: They do not know, nor can they set forth, of their information, belief or otherwise, whether Matthias Aspden, the testator, in the said bill named, did or did not, and during his residence in this country as the place of his domicil, or otherwise, and at any time or times respectively, invest several or any sum or sums of money in the purchase of bank stock and annuities in the funds of this country, or whether or not; and also in the East India and South Sea company, and also in the French funds; save and except that these defendants say they have been informed by their accountant, and which information they believe to be true, that the four several sums of three thousand pounds, five hundred pounds, one thousand pounds, and four thousand five hundred pounds, four pounds per cent. annuities consolidated, one thousand seven hundred and

eighty, mentioned in the schedule hereunder subscribed, and which these defendants pray may be taken as part of this their answer, under the respective dates of one thousand seven hundred and eighty; May thirtieth, one thousand seven hundred and eighty-two; April ninth, May second, June fifth, and November twenty-eight, were respectively transferred into the name of Matthias Aspden, of Norfolk street, gentleman, (who as these defendants apprehend and believe was the testator in the said bill named in satisfaction of his subscription to a loan or loans to Government; and also save and except that these defendants say they have caused their accountant to inspect the proper books of these defendants, and they are informed by their said accountant, and they believe the same to be true, that on the several days and times mentioned in the schedule in this their answer, and which they pray may be taken as part thereof, several other sums in the following stocks—that is to say, bank stock consolidated three per cent. annuities, four pounds per cent. annuities, consolidated one thousand seven hundred and eighty navy five per cent. annuities, and new four per cent. annuities, and which sums are in the said schedule particularly specified and set forth, were respectively transferred by the several persons in the said schedule also mentioned, into the name of the said testator by the several descriptions following, that is to say: the bank stock, by the description of Matthias Aspden, of Orange street, Red Lion square, esquire; the consolidated three per cent. annuities by the description of Matthias Aspden, of Philadelphia, in North America, esquire; the four pounds per cent. annuities, consolidated one thousand seven hundred and eighty, by the description of Matthias Aspden, of Norfolk street, gentleman; and the navy five per cents., and new four per cents. by the description of Matthias Aspden, of Fenchurch street, gentleman; and these defendants further say, they have also been informed by their said accountant, and they believe the same to be true, that on the ninth day of August, one thousand eight hundred and twenty-four, which is the year in the said bill stated to have been the time of the death of the said testator, there were standing in the name of the said Matthias Aspden, in the books of these defendants, the several sums of four thousand pounds bank stock, ten thousand pounds consolidated three per cent. annuities, three thousand five hundred pounds new four per cent. annuities, six thousand five hundred pounds three pounds ten shillings per cent. reduced annuities, and six thousand pounds four per cent. annuities, unassented to receive three pounds ten shillings per cent. reduced annuities, pursuant to the provisions of the act of the fifth of George the Fourth, cap. 11; and these defendants further say, they have been informed by their said accountant, and believe it to be true, that, for the reasons and under the circumstances next hereafter stated, the said several sums of stock and unassented four per cent. annuities are not, nor are nor is any parts or part thereof respectively now standing in the books of these defendants, in the name of the said Matthias Aspden; and these defendants say that on or about the thirtieth of July, one thousand eight hundred and twenty-six, John

Aspden, as the heir-at-law of the said testator, filed his bill in the high court of chancery against Henry Nixon, these defendants, the East India company, and the South Sea company, and divers other persons, praying, amongst other things, that the usual accounts might be taken of the testator's personal estate, and that he might be declared entitled thereto, and these defendants restrained from permitting any transfer of the respective funds aforesaid to be made. And these defendants also say that they have been informed, and believe it to be true, that the said John Aspden, afterwards, and on or about the first day of March, one thousand eight hundred and twenty-eight, departed this life, and that thereupon the said complainants, in the present suit claiming to be the next of kin of the said John Aspden, filed their bill of revivor in the said cause against the several defendants thereto, including these defendants; and that the said suit was afterwards revived and came on for hearing, and was heard on the seventeenth day of July, one thousand eight hundred and thirty, before the right honorable the Vice Chancellor, who made a decree dismissing the said complainants' said bill with costs; but these defendants, for their greater certainty as to the said suit and the several proceedings had under the same, now remaining as of record in the high court of chancery, crave leave to refer thereto when produced. And these defendants further say, that they have been informed, and believe it to be true, that upon, or shortly after, the pronouncing of the said decree, the constituted attorney of Henry Nixon, (and which said Henry Nixon claimed to be the executor of the last will and testament of the said Matthias Aspden,) did, by himself or his solicitors, apply to the proper officer of these defendants to transfer, or permit a transfer to be made, of the said several sums of stock into the name or to the order of him, the said Henry Nixon. But these defendants also say, they have been informed, and believe it to be true, that inasmuch as previously to such last mentioned application, the said complainants had served the proper officer of these defendants with a distringas, issuing out of this honorable court, to restrain him from making such transfer, and had given notice to such officer that these defendants were not to make, or permit the same to be made, the solicitors of these defendants did, on the fourth day of August now last past, as these defendants have been informed and believe, serve the solicitors of the said complainants, or cause them to be served, with a notice of that date, and whereby they expressly informed the solicitors of the said complainants in writing, that if the said complainants did not obtain and serve an injunction on or before the seventh day of the said month of August, the transfer of the said stocks would be permitted, and the dividends would be paid, or otherwise; such notice was to some such or the like effect. And these defendants also say, that they have been informed and believe, that the time mentioned in the said notice of these defendants' solicitors, was afterwards, at the earnest request of the solicitor of the said complainants, extended for three days, but that no injunction having been, at the expiration of such time, served by the said complainants on these defendants, or their proper officer, the pro-

per officer of these defendants did, on the seventh day of the said month of August, on the application of the attorney, lawfully constituted, of the said Henry Nixon, as these defendants are advised and submit they were bound to do, permit the said stocks to be transferred; and the same were accordingly, as these defendants have also been informed and believe, on that day transferred respectively out of the name of the said Matthias Aspden, by the said attorney so constituted as aforesaid; and the said sum of six thousand pounds four per cent. annuities, unassented to receive three pounds ten shillings per cent. annuities; and the dividends due on the said several stocks, were respectively received by him. But these defendants, for their greater certainty as to the date and material contents of such notice, crave leave to refer thereto when produced. And these defendants further say, they are strangers to the several other matters and things in the said complainants' said bill of complaint contained, and are ready and willing to act as this honorable court shall direct, upon being indemnified by this honorable court in so doing, and paid their costs, and particularly their costs of this suit. And these defendants deny all and all manner of unlawful combination and confederacy wherewith they are charged in and by the said bill; without this, that there is any other cause, matter, or thing in the complainants' said bill of complaint contained, material or effectual in the law for them, these defendants, to make answer unto, and not herein and hereby well and sufficiently answered, avoided, traversed, or denied, is true to the knowledge and belief of these defendants; all which matters and things these defendants are ready and willing to aver, justify, maintain, and prove as this honorable court shall direct, and humbly pray to be hence dismissed with their reasonable costs and charges in the law in this behalf most wrongfully sustained.

WM. PHILLIMORE.

The schedule to which the above written answer refers.

Bank stock.

1797,	April	21	By John Platt..... £500
1798,	May	22	C. Terry..... 500
1813,	March	2	P. B. Bawerie..... 200
	July	20	W. Williams..... 200
	Nov'r	2	Do..... 180
1814,	July	15	Do..... 20
1815,	May	18	Do..... 200
1816,	Feb'y	20	Do..... 100
	Feb'y	23	H. D. Acland..... 100
1820,	Feb'y	17	A. Williams..... 500
1822,	July	20	M. Levy..... 1,000
			3,500

Consolidated 3 *per cent. annuities.*

1783,	Jan'ry	27	By P. Antrobers	£1,000
1786,	Oct'r	13	J. Cuel	400
1789,	Nov'r	10	R. Hibbert	300
1790,	July	16	J. Adee	100
1791,	April	11	R. Plimpton	800
	July	7	W. Watson	100
1793,	Feb'ry	1	M. Sprott	300
1794,	June	3	H. Stracy & Co.	1,000
1797,	August	23	N. Fenwick	400
1800,	April	8	J. Hensley	600
1810,	June	1	T. Greenwood	50
1817,	Feb'ry	5	J. Rayley	450
	Oct'r	7	J. Clements	500
1821,	Feb'ry	15	T. Greenwood	500
	Dec'r	1	Do	500
1822,	Feb'ry	7	Do	500
	May	30	Do	500
	Sept'r	20	R. Sanderson	1,000
1823,	Feb'ry	11	N. M. Rothschild	1,900
	May	30	T. Greenwood	500
	Oct'r	3	J. Painter	500
				£11,000

£4 *per cent. annuities consolidated*, 1780.

1780,	May	30	By subscription	£3,000
1781,	May	4	W. Golightly	1,250
1782,	April	9	Subscription	500
	May	2	Do	1,000
	June	25	Do	1,000
	Nov'r	28	Do	4,500
1784,	July	16	C. Prichard	1,000
1785,	April	21	R. Law	250
	Oct'r	29	W. Hobson	250
1786,	May	12	Do	250
1787,	August	4	R. Budd	200
1789,	May	28	J. Pearce	300
1795,	April	28	J. Boyce	250
1805,	July	30	J. E. Nettervill	100
	Nov'r	15	E. Isaac	100
1810,	Dec'r	20	J. Cooper	100
1811,	Jan'ry	31	J. Clements	100
	April	26	R. Budd	100
				£14,250

Navy £5 *per cent. annuities.*

1784,	Sept'r	2	By R. Hankey	£2,145	14	0
	Nov'r	17	T. Hammersley	54	6	0
1787,	Feb'ry	15	J. Holmes	800	0	0
1789,	Oct'r	3	T. Johnson	1,000	0	0
1807,	June	1	E. Isaac	50	0	0
1819,	Dec'r	1	J. Gibbett	450	0	0
1820,	Jan'y	18	H. Neil	500	0	0
				£5,000	0	0

New four per cent. annuities.

1823, Dec'r 2	By E. Alder.....	£480
1824, May 28	S. F. Hallard.....	500
		£980

Sealed by order of the court of directors, 9 December, 1830.

JOHN KNIGHT, *Sect'y*. [L. S.]

Examined—H. D.
T. HAND.

This is the paper exhibit, or document, referred to by Thomas Hand, in his examination, as the paper marked P.

THOMAS HAND.

W. COWBURN,
ALFRED KING.

Davis.—Monday, the 4th day of July, 1831.

Between JENNET, otherwise JENET JONES, W., and THOMAS POOLE and MARY, his wife, pl'fs, and HENRY NIXON, and others, def'ts. } By bill.

This day being appointed by the court for reading in court the plaintiff's bill, and the plea of the above named defendant, and for counsel on both sides to attend; now, upon opening the matter of the said bill and plea, by Mr. Duckworth, of counsel for the said defendant, and reading the same, and hearing Thomas Crosby Treslove, esquire, and J. A. F. Simpkinson, esquire, two of his majesty's learned counsel, on behalf of the said defendant, Henry Nixon; and William Fuller Boteler, esquire, and Mr. Wilbraham, of counsel on behalf of the plaintiffs; it is ordered by the court, that the said plea be, and the same is hereby, allowed, and that the said plaintiff's bill be, and the same is hereby, dismissed out of this court, as to the said defendant, Henry Nixon, with costs; and that it be, and it is hereby, referred to Jeffries Spranger, esquire, one of the masters of this court, to tax the said costs, and that such costs, when taxed, be paid by the said plaintiffs to the said defendant, Henry Nixon, his solicitor, or clerk in court.

DAVIS,
For defendant HENRY NIXON.

In. T. G., *Atty* H. W. V. 4.
X'd—T. HAND.

This is the paper exhibit, or document, referred to by Thomas Hand, in his examination, as the paper marked Q.

THOMAS HAND.

W. COWBURN,
ALFRED KING.

Davis.—Wednesday, the 6th day of July, 1831.

Between JENNETT, o[the]rwise JENET JONES, and THOMAS POOLE and MARY his wife, plff's,
and
HENRY NIXON, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, and the governor and company of the Bank of England, the united company of merchants trading to the East Indies, and the governor and company of merchants trading to the South seas, and other parts of America, and for encouraging the fishery, def'ts. } By bill.

Whereas, by an order of this court made in this cause, bearing date the 20th day of August, 1830, it was ordered by the court, that the said defendant, Henry Nixon, should not sell or transfer the sums of £4,000 bank stock, £10,000 three per centum consolidated bank ann's, and £6,500 reduced £3 10 0 per centum bank ann's then standing in the books of the defendants, the governor and company of the Bank of England, in the name of Matthias Aspden, the tes'tor in the plaintiffs' bill named; and that he should not sell, transfer, or receive the sum of £6,000 £4 per centum bank ann's, not assented to take £3 10 0 per centum per annum in lieu th[ere]of, in the manner and at the times required by an act of Parli[a]ment of the 5th year of his late majesty's reign, also standing in the books of the said defendants, the governor and company of the Bank of England, in the name of the said tes'tor; and it was also ordered that the said defendant, Henry Nixon, should not sell or transfer the sum of £3,000 stock then standing in the books of the defendants, the united company of merchants of England trading to the East Indies, in the name of the said tes'tor; and the sum of £5,000 stock standing in the name of the said tes'tor in the books of the defendants, the governor and company of merchants of Great Britain trading to the South seas, and other parts of America, and for encouraging the fishery, and he should not receive the dividends or interest upon any of the several stocks or funds aforesaid; and also that the said defendant, Henry Nixon, should not possess himself of the several certificates and other documents then in the poss'ion of the defendants, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, of, or relating to, the inscriptions in the name of the said tes'tor, of stock in the French funds, or of actions of the Bank of France, in the said bill mentioned, or any of them, until he should have appeared to, and fully answered the said bill, or the further [order] of this court to the contrary; and it was further ordered by the court, that the said defendants, the governor and company of the Bank of England, the united company of the merchants of England trading to the East Indies, and the governor and company of merchants of Great Breat Britain trading to the South seas, and other parts of

America, and for encouraging the fishery, should not permit the said defendant, Henry Nixon, or any other person, to sell, transfer, or receive the aforesaid several sums of stock and cash standing in their books in the name of the said testator, Matthias Aspden, as in the said bill mentioned; and that the said defendants, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, should not deliver over, or part with, the possession of the aforesaid certificates and other documents of, or relating to, the inscriptions in the name of the said tes'tor of stock in the French funds, or of actions of the Bank of France, until they, the said defendants, the governor and company of the Bank of England, the united company of merchants trading to the East Indies, the governor and company of merchants of Great Britain trading to the South seas, and other parts of America, and for encouraging the fishery, and the said Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, should have answered the said bill, or the further order of this court to the contrary; and it was further ordered by the court, that his majesty's writ or writs of injunction should issue out, and, under the seal of this court, to be directed to the defendants for the purposes aforesaid, if necessary. Now, upon the motion of J. A. F. Simkinson, esquire, one of his majesty's learned counsel on behalf of the said defendant, Henry Nixon, informing the court that the said defendant, Henry Nixon, had filed his plea to the said plaintiffs' bill, and the same, upon argument thereof, had been allowed, and therefore praying that the said injunction may be dissolved. Upon reading an affidavit of service of notice of this motion, it is ordered by the court that the said injunction be, and the same is hereby, dissolved.

In. T. G., *Atty.* H. W. V. fo. 12.

DAVIS,
For the defendant HENRY NIXON.

X.—T. HAND.

This is the paper, exhibit, or document referred to by Samuel Frederick Milford, in his examination, as the paper marked Z.

SAM'L FRED'K MILFORD.

W. COWBURN,
ALFRED KING.

This is the paper, exhibit, or document referred to by Michael Denney, in his examination, as the paper marked Z.

M. DENNEY.

W. COWBURN,
ALFLED KING.

This is the paper, exhibit, or document referred to by Robert James Kentish, in his examination, as the paper marked Z.

R. J. KENTISH.

W. COWBURN,
ALFRED KING.

Between JOHN ASPDEN, plaintiff,
[and]
HENRY NIXON, Esther Hartley, Samuel Williams, John Sterling, the governor and company of the Bank of England, the honorable East India company, the honorable South Sea company, Henry Hoare, Henry Hugh Hoare, Charles Hoare, and Henry Merrick Hoare, defendants. } In chancery.

And

Between JENNET (otherwise Jenet) JONES, and Thomas Poole and Mary, his wife, plaintiffs,
[and]
SAME DEFENDANTS.

By bill of revivor.

[Original] bill filed 1st August, 1825. [Amended bill filed of] July, [182]7. Bill of revivor filed 27th March, 1828.

NOTE.—The amendments are shown in red ink, [and printed in brackets.]

Brief of pleadings.

States, that Matthias Aspden, of King street, Holborn, London, deceased, was formerly a merchant in Philadelphia, in North America, but quitted that place when the war broke out between this country and America, in the year 1776, and came to and resided, [and became domiciled,] in this country until the time of his death, hereafter mentioned, except that he went to America after the conclusion of said war, and at one or two other times, but only to transact or settle his affairs there, [and except that he went once or twice on the continent of Europe,] and always returned to this country as to his home. And said Matthias Aspden, during his residence in this country as the place of his domicil, invested large sums of money in the purchase of stock and bank annuities in the funds of this country, and also in the funds of the East India and South Sea companies. And said Matthias Aspden departed this life on the 9th of August, 1824, being then resident in King street, Holborn, aforesaid, and domiciled in this country.

That said Matthias Aspden, in his lifetime, and at the time of making his will thereinafter mentioned, was possessed of very considerable [personal] property, [and was, or believed himself to be, entitled to considerable real estate in this country, and that he was,] in particular, [possessed] of considerable property in English, and American, [and French] funds, and of various other kinds of personal estate and effects, to a very considerable amount in the whole. And in his life-

time he duly made and executed his last will and testament, in writing, with three codicils thereto, bearing date the 6th December, 1791, and which are in the words and figures following, viz:

"These are to certify, that I do hereby annul and revoke all my former wills, giving and bequeathing my estate, real and personal, to my heir-at-law, first paying all my just debts and funeral expenses, and the following legacies: First, to each of the children of my half-brother, Benjamin Hartley, deceased, that may be alive at my death, the sum of one hundred pounds to each, Pennsylvania currency; and to my half-sister, Bersheba Zane, wife of Elnathan Zane, the sum of four hundred pounds, Pennsylvania currency; both the above living, or did live, near Haddonfield. And to my half-brother, Roger Hartley, living, at present, in Lancaster county, the sum of three hundred pounds, of the like currency.

"Witness my hand, this 6th day of December, 1791.

"MATTHIAS ASPDEN."

"Philadelphia. MATTHIAS ASPDEN."

"Least any question should arise about the legitimacy of my birth, it is my will that my estate, real and personal, should go to the party who would be my lawful heir in case there might arise no doubt on that head. It is firmly believed, by from the best information, that my birth was after marriage.

"Philadelphia, December 6th, 1791."

"I do further give one hundred pounds currency to each of the children of my deceased half-sister, Ann Hinchman, that may be living at my death.

"December 6th, 1791."

The last will of Matthias Aspden.

"I do hereby appoint my friends, Mr. George Roberts and Mr. Abram. Liddon, with the president of the old bank at the time being, to be my executors to this my last will.

"MATTHIAS ASPDEN."

"NOTE.—My property in England is as follows: £12,500 in the 4 p. ct. stock, £3,000 in the 5 p. ct. stock; £1,800 in the 3 p. ct. stock;" as in and by the probate of said will, when same shall be produced to the court, reference being thereto had, will appear.

That said testator afterwards departed this life on the 9th August, 1824, without having revoked or altered his said will, and without issue, he never having been married.

That said George Roberts and Abram Liddon both died in the lifetime of said testator, and that the president of the bank at Philadelphia, at the time of the death of the testator, was Henry Nixon, esquire; and the testator, by the expression in the third codicil to his said will, "president of the old bank," meant the president of the Bank at Phila-

delphia. And said Henry Nixon, soon after the death of said testator, (viz. in the month of November last, 1824,) proved the said will in the proper ecclesiastical court at Philadelphia, and has lately also proved same will in the proper ecclesiastical court in this country, and has obtained probate thereof from the prerogative court of the Archbishop of Canterbury, bearing date the 27th July now inst., (1825,) and thereby become the legal personal representative of said testator. And said Henry Nixon hath possessed himself of all the personal estate and effects of said testator, in America, and elsewhere, except in this country, and which are much more than sufficient to pay all the funeral and testamentary expenses, debts, and legacies of said testator, and also to leave a very considerable surplus.

That said testator was, at the time of his death, (amongst other description of property,) possessed of property in the English funds; that is to say, £4,000 bank stock, £10,000 3 per cent. consolidated bank annuities, [£6,500 three and ½ per cent. bank annuities, £6,000 4 per cent. bank annuities, not assented to take £3 10 per cent. per annum in lieu thereof, in the manner provided by an act of parliament, passed in the 5th year of his present majesty, entitled "an act for transferring several annuities of 4 per cent. per annum, into annuities of £3 10 per annum,] and £3,500 new 4 per cent. bank annuities; and such stock and moneys are still standing in the books of the governor and company of the Bank of England, in the name of said testator, with an arrear of dividends thereon respectively. And said testator also was possessed of East India stock, and also of South Sea stock, to a considerable amount; that is to say, £3,000 East India stock, and £5,000 South Sea stock. And said testator died also possessed of other personal estate and effects of various descriptions, to a large amount in the whole; and particularly he had money in the hands of Messrs. Hoare, of Fleet street, London, his bankers, to the amount of £790 3 5, and also securities and other effects.

That said testator left plaintiff his heir-at-law, [according to the law of England,] and as evidence thereof, plaintiff showeth that Thomas Aspden, of Simondstone, in Lancashire, was the common ancestor of both the said testator and plaintiff, and died many years ago, (being before the birth of plaintiff, who is now aged 85 years,) having had issue 12 children, the eldest of whom was John Aspden, who died and was buried at Deptford, in Kent, in the year 1754, leaving issue only one son, viz., Andrew Aspden, who died and was also buried at Deptford in the year 1771, leaving issue your orator, his only child and heir-at-law.

That the name of the father of said testator was Matthias Aspden, who was the third son of said testator, Thomas Aspden, the common ancestor; and that the said Matthias Aspden, the father, being resident in America, married there an American woman, whose christian name was Rebecca, and had issue by her, some time after the said marriage, an only child, viz., the said testator. And said Matthias Aspden, the father, died in or about the year 1765, in Philadelphia aforesaid, leav-

ing said testator his only lawful issue him surviving, so that upon the failure of issue of said Matthias Aspden, the father, and of said Matthias Aspden, the testator, plaintiff, as the grandson and heir-at-law of said John Aspden, who was the eldest brother of the said Matthias Aspden, the testator, become on the death of said testator his heir-at-law.

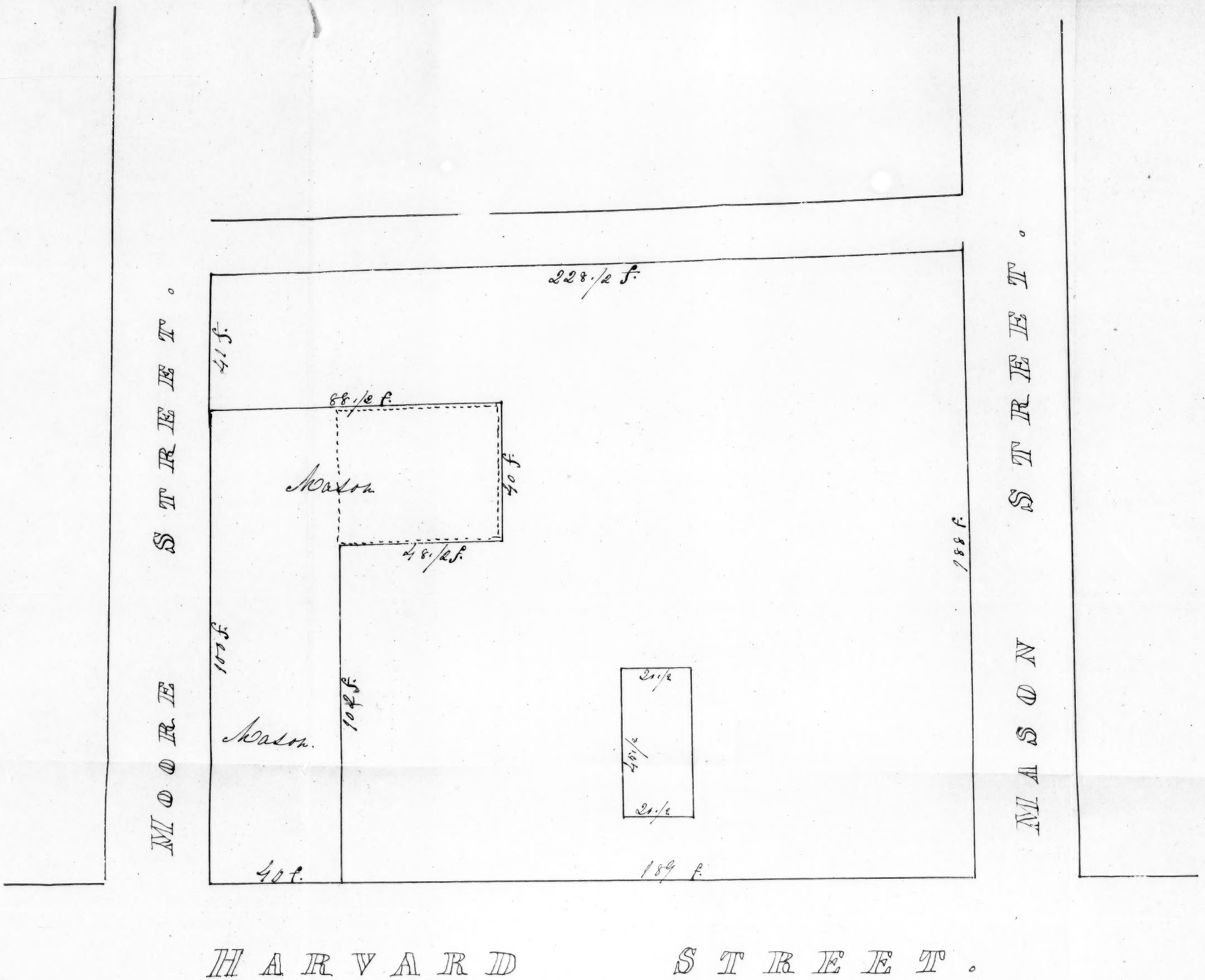
That he is advised and submits that, as such heir of the said testator, he is entitled under the will of testator to the residue of the personal estate and effects of said testator, after payment of his funeral and testamentary expenses, debts, and legacies, and which residue amounts to a very large sum.

That the said Henry Nixon, although he has proved said will in this country, always has been, and still is, resident at Philadelphia aforesaid, North America; and he has signed and sent over to Samuel Williams and John Sterling, both of the city of London, merchants, a general power of attorney, to collect, get in, and receive all the personal estate and effects of said testator in this country, with direction to them to remit to him, the said Henry Nixon, in America, all such personal estate and effects of the said testator, when, and as soon as, they are received by them, the said Samuel Williams and John Sterling. And said Henry Nixon threatens and intends to misapply such personal estate and effects, and, instead of accounting with and paying to plaintiff the residue of said testator's personal estate and effects, as the residuary legatee under said will, to pay and apply same in a manner which is in direct opposition to said will.

That he has caused notice of his aforesaid rights, under said will, to be given to said Samuel Williams and John Sterling, and has requested them not to receive or remit such personal estate and effects of said testator to said Henry Nixon. But said Samuel Williams and John Sterling threaten and intend, under said power of attorney, to sell out said bank stock and bank annuities, and likewise said India stock and said South Sea stock, and also to receive the money, securities, and effects of and belonging to said testator at said Messrs. Hoares, his bankers, and all the other personal estate and effects of said testator in this country, and to remit the produce of said stocks and annuities, and what he shall so receive in respect of the other personal estate and effects of said testator, to said Henry Nixon. And said governor and company of the Bank of England, and said East India company and South Sea company, intend, respectively, to permit the aforesaid respective transfers of such respective quantities of stock and annuities to be made by said Samuel Williams and John Sterling, unless they are prevented from so doing by this court, although they have been respectively applied to by plaintiff not to permit such transfer. And said Messrs. Hoare likewise intend to pay over and part with, to the said Samuel Williams and John Sterling, the money, securities, and effects of said testator in their hands, unless restrained by the court from so doing.

That there are certain persons in America who claim to be [the heirs at law and] next of kin to said testator, [according to the laws of the State of Pennsylvania, one of the United States of North America; and

they allege that by the laws of Pennsylvania, within which the city of Philiadelphia is situated, the real and personal property, undisposed of by the will of a person who dies not leaving a father, mother, wife, or children, but brothers and sisters of the whole, and also of the half-blood, or their representatives, would be distributed as follows, that is to say, the brothers and sisters of the whole blood, and the legal representatives of such of the brothers and sisters of the whole blood as are dead, would inherit the real estate in fee simple, as tenants in common; the representatives of those who are dead taking together the same share which their parent would have taken if living. And the personal estate would be equally divided among the brothers and sisters of the whole and of the half-blood, of their representatives; the representatives of a deceased brother or sister taking the share which their parent would have taken if living. But if there are no brothers and sisters of the whole blood, or their representatives, then brothers and sisters of the half-blood would take the whole of the personal property in exclusion of other kindred of the whole blood, and would inherit the real estates in fee simple. And that, by the laws of Pennsylvania, representation is not confined to the children of brothers and sisters, and their issue, but is extended to the most remote descendants, children always taking together the same share which their parents would have done, if any living. And that George Harrison and Thomas Henry White allege that Mary Harrison, deceased, was the half-sister of the said testator on his father's side, and that they together with others, are her descendants; and that Rebecca and Esther Hartley allege that they and Roger Hartley, deceased, and others, were the half-brothers and sisters of the said testator, on the maternal side; and that there are very numerous descendants of the said Roger Hartley, and the other half-brothers and sisters of the said testator. That Samuel Packer alleged that the mother of the testator was Rebecca Aspden, whose maiden name was Rebecca Packer; that her eldest brother was called Samuel Packer, and that he died, leaving his eldest son, Daniel Packer, deceased, who left the said Samuel Packer, his eldest son. That Joseph Lippincott and Martha Cole alleged that Rhody Packer was the sister of the said testator's mother, the said Rebecca Packer, who married George Hammett; and that the said Joseph Lippincott and Martha Cole, together with several others, are their descendants. That the said George Harrison and T. H. White, on behalf of themselves and the other descendants of the said Mary Harrison, and the said Rebecca Borough and Esther Hartley, on behalf of themselves and the other descendants of the said Roger Hartley, and of the other half-brothers and sisters of the said testator on the maternal side; and the said Samuel Packer, and the said Joseph Lippincott and Martha Cole, on behalf of themselves and the other descendants of the said George Hammett and Rhody Packer, respectively claim to be entitled to the residue of the personal estate and effects of the said testator, under, and by virtue of, his said will; and that the above named brothers and sisters of the said testator claim to be the next of kin to the said testator,



W. A. Mason Surveyor.
April 1844.

30 feet to an Inch.

..... Printed out by Dalinger, but omitted in deed.

Lith. of C. W. Bowne

T-13-S-R-9-E

South Western District. Louisiana

GRAND

LAKE

BAYOU TECHE

C. Prieur
Recpt 2-1284
Double Concession
41

G.L. Fuselier
Recpt. No 1038
Double Concession
39

B. 710
F. Pellerin
40

B. 707
Marie J. Pellerin
38

37
N. 708
Cecile Frejean

33
N. 721
Frederic Pellerin

Hyacinth Fournet

Schoolhouse
Parish 23rd Ward

J. St. Pierre
D. Concession
32

B. 763
Philip Verret

21 Marie Joseph

Cypress Swamp

Swamp

Swamp

N. 86.37 E. 75.00

N. 86.37 E. 106.00

N. 86.37 E. 100.40

N. 86.37 E. 105.40

N. 87 E. 38.92

N. 70½ E. 114.36

N. 70½ E. 116.36

N. 70½ E. 120.36

N. 70½ E. 124.36

N. 70½ E. 116.66

N. 70½ E. 102.00

N. 24½ E. 110.36

N. 24½ E. 116.36

N. 24½ E. 110.36

N. 24½ E. 116.36

N. 24½ E. 116.36

N. 24½ E. 116

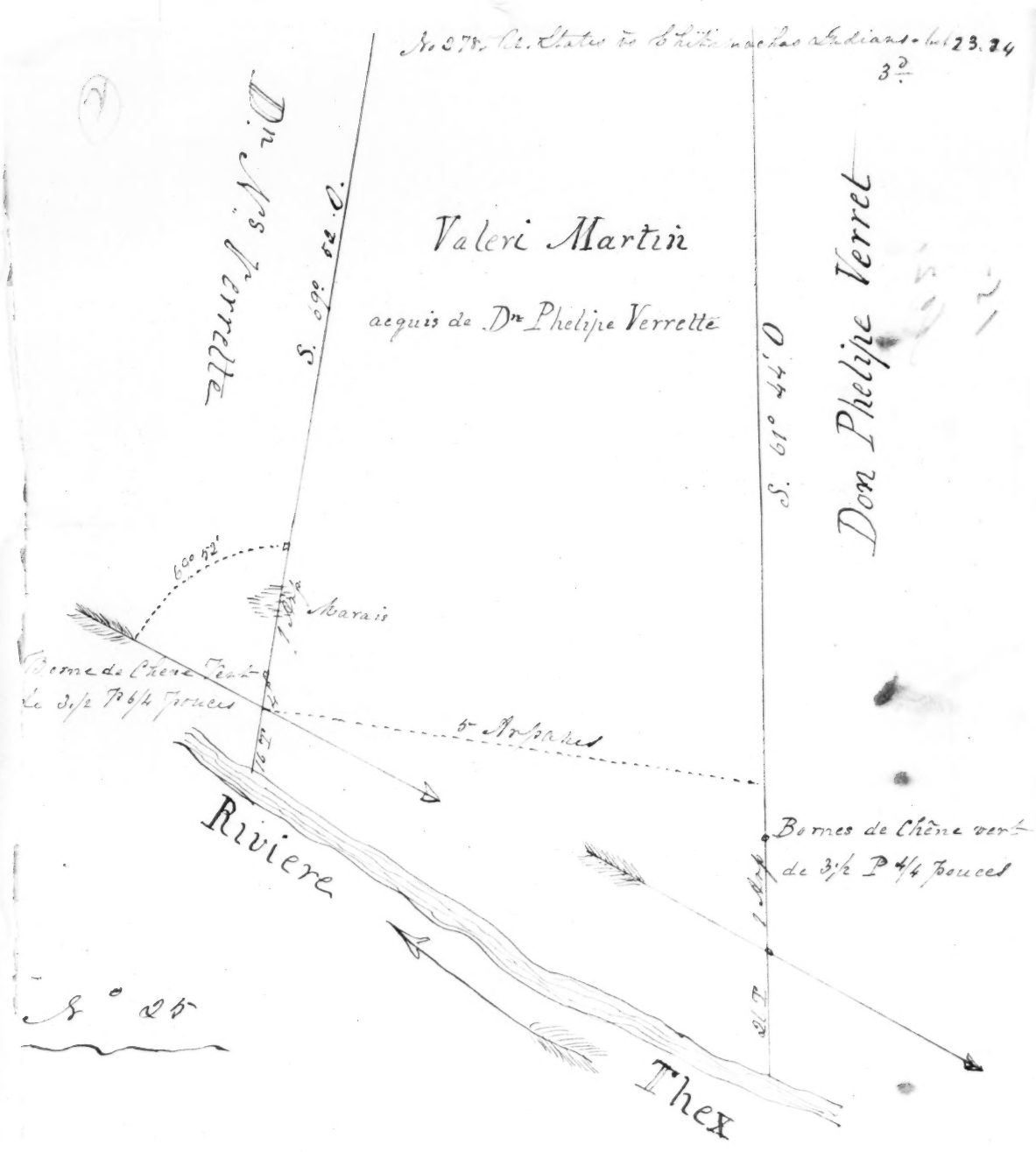
No 275 de 5 mo Chetimachas Indians
Between 23–24

(4)

No 26

A. Borne de Cypre plantée par les Sauvages

B. Gros chêne vert à 20 T de la première Borne, et à sept Pieds au Sud de la Ligne


No 278. Ct. States vs Chitimachas Indians. Lot 23. 24
3d
Valeri Martin
acquis de Dn Phelipe Verrette
Dn Ns Verrette
S. 69° 52' O.
S. 61° 44' O
Don Phelipe Verret
60° 52'
Marais
Borne de Chene Vert de 3 1/2 P 6/4 pouces
5 Arpanes
Riviere
Bornes de Chêne vert de 3 1/2 P 4/4 pouces
Thex
N° 25

No. 218. U. States vs Gresman —

Between Jobs 7-8

No 218 - U. States Vs Rillieux
page 8 -

PLAN
of
6096 4
Arpents of Land
claimed by the Heirs of
VINCENT RILLIEUX.

Lake Pontchartrain.

Bayou Bonfouca

D. Indian Field

to Roberts House

J. Gutmon

South & North

Wood

Prairie

Grand Lagoon

Bayou Liberty

Grand Cheniere

Leonard Bay

John Gatewood

Mrs Widow Brown
Mr Walsh
Purchasers
Sharon Magnolia Bridge & Orleans Prairie
Price $6 pr Arpent - one $000 Cash
1/4 at 40 & 60 days Rep - one $000 Cash
1/2 in 3 yrs Rep

Wood

Prairie

Wood

Prairie.

Salt Water

Prairie

9633 Arpents

Rigolets.

Arpents or 67 702/1000 acres.

6